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

MERIT SYSTEMS PROTECTION BOARD

5 CFR Parts 1201 and 1210

Practices and Procedures; Appeal of Removal or Transfer of Senior Executive Service Employees of the Department of Veterans Affairs; Corrections

AGENCY: Merit Systems Protection Board.

ACTION: Correcting amendments.

SUMMARY: The Merit Systems Protection Board (MSPB or the Board) published an interim final rule in the **Federal Register** on August 19, 2014, amending its rules of practice and procedure to adapt the Board's regulations to legislative changes that have created new laws applicable to the removal or transfer of Senior Executive Service employees of the Department of Veterans Affairs. This document corrects the interim final rule by revising these sections.

DATES: Effective on August 19, 2014.

FOR FURTHER INFORMATION CONTACT: William D. Spencer, Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW., Washington, DC 20419; phone: (202) 653–7200; fax: (202) 653–7130; or email: *mspb@mspb.gov.*

SUPPLEMENTARY INFORMATION: This interim final rule is necessary to adapt the MSPB's regulations to recent amendments to Federal law contained in section 707 of the Veterans' Access to Care through Choice, Accountability, and Transparency Act of 2014, Public Law 113–146 (the Act). The Act was signed by the President on August 7, 2014, and took effect on that same date. These are technical corrections to definitions and citations.

List of Subjects in 5 CFR Parts 1201 and 1210

Administrative practice and procedure.

Accordingly, 5 CFR part 1210 is corrected by making the following correcting amendments:

PART 1210—PRACTICES AND PROCEDURES FOR AN APPEAL OF A REMOVAL OR TRANSFER OF A SENIOR EXECUTIVE SERVICE EMPLOYEE BY THE SECRETARY OF THE DEPARTMENT OF VETERANS AFFAIRS

■ 1. The authority citation for part 1210 continues to read as follows:

Authority: 5 U.S.C. 1204 and 7701, and 38 U.S.C. 713.

■ 2. In § 1210.2, revise paragraph (a) to read as follows:

§ 1210.2 Definitions.

(a) The term *employee covered by this part* means an individual career appointee as that term is defined in 5 U.S.C. 3132(a)(4) or an individual who occupies an administrative or executive position and is appointed under 38 U.S.C. 7306(a) or 7401(1). (38 U.S.C. 713(a) and (g)).

* * * * *

■ 3. In § 1210.18, revise paragraph (b) to read as follows:

§ 1210.18 Burden of proof, standard of review, and penalty.

* * * * *

(b) *Appellant.* The appellant has the burden of proof, by a preponderance of the evidence, concerning:

(1) Issues of jurisdiction;

(2) The timeliness of the appeal; and

(3) Affirmative defenses.

* * * * *

William D. Spencer,

Clerk of the Board.

[FR Doc. 2014–19851 Filed 8–19–14; 8:45 am]

BILLING CODE 7400–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2013–0801; Special Conditions No. 25–562–SC]

Special Conditions: Airbus Model A350–900 Airplanes; Permanently Installed Rechargeable Lithium-Ion Batteries and Battery Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for Airbus Model A350–900 airplanes. This airplane will have a novel or unusual design feature associated with permanently installed rechargeable lithium-ion batteries and battery systems. These batteries have certain failure, operational, and maintenance characteristics that differ significantly from those of the nickel-cadmium and lead-acid rechargeable batteries currently approved for installation on large transport-category airplanes. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective date:* September 22, 2014.

FOR FURTHER INFORMATION CONTACT: Nazih Khaouly, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2432; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION:

Background

On August 25, 2008, Airbus applied for a type certificate for their new Model A350–900 series airplane. Later, Airbus requested, and the FAA approved, an extension to the application for FAA type certification to November 15, 2009. The Model A350–900 series has a conventional layout with twin wing-mounted Rolls-Royce Trent XWB engines. It features a twin aisle, 9-

abreast, economy-class layout, and accommodates side-by-side placement of LD–3 containers in the cargo compartment. The basic Model A350–900 series configuration accommodates 315 passengers in a standard two-class arrangement. The design cruise speed is Mach 0.85 with a maximum take-off weight of 602,000 lbs.

Existing airworthiness regulations did not anticipate the use of lithium-ion batteries and battery systems on aircraft. Lithium-ion batteries and battery systems have new hazards that were not contemplated when the existing regulations were issued. In Title 14, Code of Federal Regulations (14 CFR) 25.1353, the FAA provided an airworthiness standard for lead-acid batteries and nickel-cadmium batteries. These special conditions provide an equivalent level of safety as that of the existing regulation. The current regulations are not adequate for rechargeable lithium-battery and battery system installations. Additional lithium-battery and battery system special conditions are required to ensure the same level of safety as set forth by the existing regulation intended for other battery technology.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Airbus must show that the Model A350–900 series meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–129.

The FAA has determined that Airbus Model A350–900 series airplanes must comply with the following sections: § 25.863(a) through (d), Amendment 25–61 and Amendment 25–66.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model A350–900 series because of a novel or unusual design feature, special conditions are prescribed under § 21.16.

Special conditions are initially applicable to the model or series for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Airbus Model A350–900 airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, the noise-certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy under section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in § 11.19, under § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The Airbus Model A350–900 airplane will incorporate the following novel or unusual design features: Permanently installed rechargeable lithium batteries and lithium battery systems.

Discussion

The current regulations governing installation of batteries in large transport-category airplanes were derived from Civil Air Regulations (CAR) part 4b.625(d) as part of the re-codification of CAR 4b that established 14 CFR part 25 in February 1965. The new battery requirements, § 25.1353(c)(1) through (c)(4), basically reworded the CAR requirements.

Increased use of nickel-cadmium batteries in small airplanes resulted in increased incidents of battery fires and failures which led to additional rulemaking affecting large transport-category airplanes as well as small airplanes. On September 1, 1977 and March 1, 1978, the FAA issued § 25.1353(c)(5) and (c)(6), respectively, governing nickel-cadmium battery installations on large transport-category airplanes.

The proposed use of lithium-ion batteries and battery systems for equipment and systems on Airbus Model A350 airplanes has prompted the FAA to review the adequacy of these existing regulations. Our review indicates that the existing regulations do not adequately address several failure, operational, and maintenance characteristics of lithium-ion batteries and battery systems that could affect the safety and reliability of the Airbus model A350–900 airplane rechargeable lithium batteries and rechargeable lithium-battery-system installations.

At present, commercial aviation has limited experience with use of rechargeable lithium-ion batteries and battery systems in applications involving commercial aviation. However, other users of this technology, ranging from wireless telephone manufacturers to the electric-vehicle industry, have noted potential hazards with lithium-ion batteries and battery systems. These problems include overcharging, over-discharging, and flammability of cell components.

1. Overcharging

In general, lithium-ion batteries and battery systems are significantly more susceptible to internal failures that can result in self-sustaining increases in temperature and pressure (i.e., thermal runaway) than their nickel-cadmium or lead-acid counterparts. This condition is especially true for overcharging, which causes heating and destabilization of the components of the cell, leading to the formation (by plating) of highly unstable metallic lithium. The metallic lithium can ignite, resulting in a self-sustaining fire or explosion. Finally, the severity of thermal runaway, due to overcharging, increases with increasing battery capacity due to the higher amount of electrolyte in large batteries.

2. Over-Discharging

Discharge of some types of lithium-ion batteries and battery systems, beyond a certain voltage (typically 2.4 volts), can cause corrosion of the electrodes of the cell, resulting in loss of battery capacity that cannot be reversed by recharging. This loss of capacity may not be detected by the simple voltage measurements commonly available to flightcrews as a means of checking battery status—a problem shared with nickel-cadmium batteries.

3. Flammability of Cell Components

Unlike nickel-cadmium and lead-acid batteries, some types of lithium-ion batteries and battery systems use liquid electrolytes that are flammable. The electrolyte can serve as a source of fuel for an external fire if there is a breach of the battery container.

The problems lithium-ion battery and battery-system users experience raise concern about the use of these batteries in commercial aviation. The intent of the proposed special conditions is to establish appropriate airworthiness standards for lithium-ion battery installations in Airbus Model A350–900 airplanes and to ensure, as required by §§ 25.1309 and 25.601, that these lithium-ion batteries and battery systems will not result in an unsafe condition. To address these concerns, these special conditions adopt the following requirements:

- Those sections of 14 CFR 25.1353 that are applicable to lithium ion batteries.
- The flammable fluid fire protection requirements of 14 CFR 25.863. In the past, this rule was not applied to batteries of transport category airplanes, since the electrolytes used in lead-acid and nickel-cadmium batteries are not flammable.

• New requirements to address the hazards of overcharging and over-discharging that are unique to lithium ion batteries.

• New maintenance requirements to ensure that batteries used as spares are maintained in an appropriate state of charge.

These special conditions are similar to lithium-ion batteries and battery systems special conditions adopted for the Boeing Model 787 (72FR57842; October 11, 2007).

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Discussion of Comments

Notice of proposed special conditions No. 25–13–41–SC for the Airbus Model A350–900 series airplane was published in the **Federal Register** on December 19, 2013 (78 FR 76772). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Airbus Model A350–900 series airplanes. Should Airbus apply later for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on Airbus Model A350–900 series airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Airbus Model A350–900 airplanes.

The following special conditions apply to all rechargeable lithium-ion batteries and battery systems on Airbus Model A350–900 airplanes, in lieu of the requirements of § 25.1353(b)(1) through (b)(4) at Amendment 25–123.

These special conditions require that (1) all characteristics of the rechargeable lithium-ion batteries and battery systems, and their installation, that could affect safe operation of Airbus Model A350–900 airplanes, are addressed, and (2) appropriate Instructions for Continued Airworthiness, which include maintenance requirements, are established to ensure the availability of electrical power, when needed, from the batteries.

Rechargeable lithium-ion batteries and battery systems on Airbus Model A350–900 airplanes must be designed and installed as follows:

1. Safe cell temperatures and pressures must be maintained during any foreseeable charging or discharging condition, and during any failure of the charging or battery monitoring system not shown to be extremely remote. The rechargeable lithium-ion batteries and battery systems must preclude explosion in the event of those failures.

2. Design of the rechargeable lithium-ion batteries and battery systems must preclude the occurrence of self-sustaining, uncontrolled increases in temperature or pressure.

3. No explosive or toxic gases emitted by any rechargeable lithium-ion batteries and battery systems in normal operation, or as the result of any failure of the battery charging system, monitoring system, or battery installation that is not shown to be extremely remote, may accumulate in hazardous quantities within the airplane.

4. Installations of rechargeable lithium-ion batteries and battery systems must meet the requirements of § 25.863(a) through (d).

5. No corrosive fluids or gases that may escape from any lithium-ion batteries and battery systems may damage surrounding structure or any adjacent systems, equipment, or electrical wiring of the airplane in such a way as to cause a major or more severe failure condition, in accordance with § 25.1309 (b) and applicable regulatory guidance.

6. Each rechargeable lithium-ion battery and battery system must have provisions to prevent any hazardous effect on structure or essential systems caused by the maximum amount of heat the battery can generate during a short circuit of the battery or of its individual cells.

7. Rechargeable lithium-ion batteries and battery systems must have a system to automatically control the charging rate of the battery, so as to prevent battery overheating or overcharging, and:

i. A battery-temperature sensing and over-temperature warning system with a means for automatically disconnecting the battery from its charging source in the event of an over-temperature condition, or,

ii. A battery-failure sensing and warning system with a means for automatically disconnecting the battery from its charging source in the event of battery failure.

8. Any rechargeable lithium-ion batteries and battery systems, the function of which are required for safe operation of the airplane, must incorporate a monitoring and warning feature that will provide an indication to the appropriate flight crewmembers whenever the state-of-charge of the batteries has fallen below levels considered acceptable for dispatch of the airplane.

9. The Instructions for Continued Airworthiness required by § 25.1529 must contain maintenance requirements to assure that the lithium-ion batteries are sufficiently charged at appropriate intervals specified by the battery manufacturer and the equipment manufacturer of the rechargeable lithium-ion battery or rechargeable lithium-ion battery system. This is required to ensure that rechargeable lithium-ion batteries and battery systems will not degrade below specified ampere-hour levels sufficient to power the aircraft system, for intended applications. The Instructions for Continued Airworthiness must also contain procedures for the maintenance of batteries in spares storage to prevent the replacement of batteries with batteries that have experienced degraded charge-retention ability or other damage due to prolonged storage at a low state of charge. Replacement batteries must be of the same manufacturer and part number as approved by the FAA. Precautions should be included in the Instructions for Continued Airworthiness maintenance instructions to prevent mishandling of the rechargeable lithium-ion batteries and battery systems, which could result in short-circuit or other unintentional impact damage caused by dropping or other destructive means.

Note 1: The term ''sufficiently charged''' means that the battery will retain enough of a charge, expressed in ampere-hours, to ensure that the battery cells will not be damaged. A battery cell may be damaged by lowering the charge below a point where the battery experiences a reduction in the ability to charge and retain a full charge. This reduction would be greater than the reduction that may result from normal operational degradation.

Note 2: These special conditions are not intended to replace § 25.1353(b) at

Amendment 25–123 in the certification basis for Airbus Model A350–900 airplanes. These special conditions apply only to rechargeable lithium-ion batteries and battery systems and their installations. The requirements of § 25.1353(b) at Amendment 25–123 remain in effect for batteries and battery installations on Airbus Model A350–900 airplanes that do not use rechargeable lithium-ion batteries.

Issued in Renton, Washington, on July 30, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–19821 Filed 8–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2013–0901; Special Conditions No. 25–536–SC]

Special Conditions: Airbus Model A350–900 Airplanes; Flight-Envelope Protection: High-Speed Limiting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for Airbus Model A350–900 series airplanes. These airplanes will have a novel or unusual design feature associated with high speed limiting. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective date:* September 22, 2014.

FOR FURTHER INFORMATION CONTACT: Joe Jacobsen, FAA, Airplane and Flightcrew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2011; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Background

On August 25, 2008, Airbus applied for a type certificate for their new Model A350–900 airplane. Later, Airbus requested, and the FAA approved, an extension to the application for FAA type certification to November 15, 2009. The Model A350–900 airplane has a conventional layout with twin wing-mounted Rolls-Royce Trent XWB engines. It features a twin-aisle, 9-abreast, economy-class layout, and accommodates side-by-side placement of LD–3 containers in the cargo compartment. The basic Model A350–900 airplane configuration accommodates 315 passengers in a standard two-class arrangement. The design cruise speed is Mach 0.85 with a maximum take-off weight of 602,000 lbs.

The longitudinal-control law design of the Airbus Model A350–900 airplane incorporates an overspeed protection system in the normal mode, which prevents the pilot from inadvertently or intentionally exceeding a speed approximately equivalent to V_{FC} or attaining V_{DF}. Current Title 14 Code of Federal Regulations (14 CFR) part 25 sections do not relate to a high-speed-limiting protection system that might preclude or modify flying-qualities assessments in the overspeed region. However, the requirements of § 25.253 (high-speed characteristics) and its related policy are applicable to the Model A350–900 airplane and are not affected by this special condition.

Type Certification Basis

Under 14 CFR 21.17, Airbus must show that the Model A350–900 airplane meets the applicable provisions of part 25, as amended by Amendments 25–1 through 25–129.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Airbus Model A350–900 airplane because of a novel or unusual design feature, special conditions are prescribed under § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Model A350–900 airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36. The FAA must issue a finding of regulatory adequacy under section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, under § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The Model A350–900 airplane incorporates the following novel or unusual design features: an overspeed protection system that prevents the pilot from inadvertently or intentionally exceeding a speed approximately equivalent to V_{FC}, or attaining V_{DF}.

At V_{MO} + 10 knots or M_{MO} + 0.02 knots, an automatic nose-up pitch is applied with phase advance in the event of high acceleration. The speed stabilizes at V_D-10kts/M_D-0.02 if the stick is full forward, or the speed will return below V_{MO}/M_{MO} if the stick is released.

Discussion

This special condition establishes requirements to ensure that operation of the high-speed-limiting protection system does not impede normal attainment of speeds up to the overspeed warning. Its main features are:

1. It protects the airplane against high-speed/high Mach-number flight conditions beyond V_{MO}/M_{MO}.

2. It does not interfere with flight at V_{MO}/M_{MO}, even in turbulent air.

3. It still provides load-factor limitation through the ''pitch limiting'' function described below.

4. It restores positive static stability beyond V_{MO}/M_{MO}.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Discussion of Comments

Notice of proposed special conditions No. 25–13–23–SC for the Airbus Model A350–900 airplane was published in the **Federal Register** on January 8, 2014 (79 FR 1336). An anonymous comment was received January 16, 2014. The commenter was concerned about high-level windshears, and the potential violation of Reduced Vertical Separation Minimums (RVSM) airspace restrictions that might accompany a nose-up input of a high-speed protection system. In addition, the commenter was concerned about system failures or malfunctions leading to unintended control consequences and the pilot's ability to appropriately counteract those control anomalies.

The FAA would like to clarify that this special condition only addresses one aspect of high-speed limiting designs. Many other regulations, such as 14 CFR 25.1301 and 25.1309, address the proper intended function and failure scenarios of such a system. Therefore,

the anonymous comment is beyond the scope of this special condition, and is already accounted for and considered in the basic regulatory-compliance process.

Applicability

As discussed above, these special conditions apply to Airbus Model A350–900 airplanes. Should Airbus apply later for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on Airbus Model A350–900 series airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type-certification basis for Airbus Model A350–900 series airplanes.

In addition to § 25.143, the following requirements apply: Operation of the high-speed limiter during all routine and descent-procedure flight must not impede normal attainment of speeds up to overspeed warning.

Issued in Renton, Washington, on August 15, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–19822 Filed 8–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2013–1001; Special Conditions No. 25–535–SC]

Special Conditions: Airbus Model A350–900 Airplanes; High-Speed Protection System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for Airbus Model A350–900 airplanes. These airplanes will have a novel or unusual design feature associated with a high-speed protection system that limits nose-down pilot authority at speeds above V_C/M_C, and prevents the airplane from performing the maneuver required under the Code of Federal Regulations. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective date:* September 22, 2014.

FOR FURTHER INFORMATION CONTACT: Todd Martin, FAA, Airframe/Cabin Safety, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1178; facsimile (425) 227–1322.

SUPPLEMENTARY INFORMATION:

Background

On August 25, 2008, Airbus applied for a type certificate for their new Model A350–900 airplane. Later, Airbus requested, and the FAA approved, an extension to the application for FAA type certification to November 15, 2009. The Model A350–900 airplane has a conventional layout with twin wing-mounted Rolls-Royce Trent XWB engines. It features a twin-aisle, 9-abreast, economy-class layout, and accommodates side-by-side placement of LD–3 containers in the cargo compartment. The basic Model A350–900 airplane configuration accommodates 315 passengers in a standard two-class arrangement. The design cruise speed is Mach 0.85 with a maximum take-off weight of 602,000 lbs.

The Model A350–900 airplane, like Airbus Model A320, A330, A340 and A380 series airplanes, has a high-speed protection system that limits nose-down pilot authority at speeds above V_C/M_C, and prevents the airplane from actually performing the maneuver required under § 25.335(b)(1). Special conditions are necessary to address the Model A350–900 airplane high-speed protection system. These special conditions identify various symmetric and non-symmetric maneuvers that will ensure that an appropriate design dive speed, V_D/M_D, is established.

Type Certification Basis

Under Title 14, Code of Federal Regulations (14 CFR) 21.17, Airbus must show that the Model A350–900 airplane meets the applicable provisions of part 25, as amended by Amendments 25–1 through 25–129.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model A350–900 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Model A350–900 airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36. The FAA must issue a finding of regulatory adequacy under section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, under § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

In addition to the applicable airworthiness regulations and special conditions, the Model A350–900 airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36. The FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The Airbus Model A350–900 airplane will incorporate the following novel or unusual design features:

A high-speed protection system that limits nose-down pilot authority at speeds above V_C/M_C, and prevents the airplane from actually performing the maneuver required under § 25.335(b)(1). The special conditions identify various symmetric and non-symmetric maneuvers that will ensure that an appropriate design dive speed, V_D/M_D, is established.

Discussion

Section 25.335(b)(1) is an analytical envelope condition originally adopted in Part 4b of the Civil Air Regulations to provide an acceptable speed margin

between design cruise speed and design dive speed. Flutter-clearance design speeds and airframe design loads are impacted by the design dive speed. While the initial condition for the upset specified in the rule is 1g level flight, protection is afforded for other inadvertent overspeed conditions as well. Section 25.335(b)(1) is intended as a conservative enveloping condition for potential overspeed conditions, including non-symmetric conditions.

To establish that potential overspeed conditions are enveloped, Airbus should demonstrate that any reduced speed margin, based on the high-speed protection system in the Model A350–900 airplane, will not be exceeded in inadvertent, or gust-induced, upsets resulting in initiation of the dive from non-symmetric attitudes; or that the airplane is protected, by the flight-control laws, from getting into non-symmetric upset conditions. The special conditions identify various symmetric and non-symmetric maneuvers that will ensure that an appropriate design dive speed, V_D/M_D, is established.

These special conditions are in lieu of § 25.335(b)(1). Section 25.335(b)(2), which also addresses the design dive speed, is applied separately (Advisory Circular (AC) 25.335–1A provides an acceptable means of compliance to § 25.335(b)(2)). The applicant should conduct a demonstration that includes a comprehensive set of conditions, as described below.

Special conditions (3) and (4) indicate that failures of the high-speed protection system must be improbable and must be annunciated to the pilots. If these two criteria are not met, then the probability that the established dive speed will be exceeded, and the resulting risk to the airplane, is too great. On the other hand, if the high-speed protection system is known to be inoperative, then dispatch of the airplane could be acceptable under an approved minimum-equipment list (MEL) containing language similar to special condition (5). Dispatch under an MEL would require that appropriate reduced operating speeds, V_{MO}/M_{MO}, are provided in the airplane flight manual (AFM), and the cockpit display of those reduced speeds, as well as the overspeed warning for exceeding those speeds, are equivalent to that of the normal airplane with the high-speed protection system operative.

We do not believe that application of the Interaction of Systems and Structures special conditions (docket no. FAA–2013–0894), or the European Aviation Safety Agency (EASA) Certification Specification (CS) 25.302, is appropriate in this case because design dive speed is, in and of itself, part of the design criteria. Stability and control, flight loads, and flutter evaluations all depend on the design dive speed. Therefore, a single design dive speed should be established that will not be exceeded, taking into account the performance of the high-speed protection system as well as its failure modes, failure indications, and accompanying AFM instructions.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Discussion of Comments

Notice of proposed special conditions No. 25–13–35–SC for Airbus Model A350–900 airplanes was published in the **Federal Register** on December 24, 2013 (78 FR 77611). No comments were received and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions apply to Airbus Model A350–900 airplanes. Should Airbus apply at a later date for a change to the type certificate to include another airplane series incorporating the same novel or unusual design feature, the special conditions would apply to that series as well.

Conclusion

This action affects only certain novel or unusual design features on the Airbus Model A350–900 series airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702 and 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type-certification basis for Airbus Model A350–900 series airplanes.

1. In lieu of compliance with § 25.335(b)(1), if the flight-control system includes functions that act automatically to initiate recovery before the end of the 20-second period specified in § 25.335(b)(1), V_D/M_D must be determined from the greater of the speeds resulting from conditions (a) and (b), below. The speed increase occurring in these maneuvers may be calculated if reliable or conservative aerodynamic data are used.

a. From an initial condition of stabilized flight at V_C/M_C, the airplane is upset so as to travel a new flight path 7.5 degrees below the initial path. Control application, up to full authority, is made to try to maintain this new flight path. Twenty seconds after initiating the upset, manual recovery is made at a load factor of 1.5 g (0.5 acceleration increment), or such greater load factor that is automatically applied by the system with the pilot's pitch control set to neutral. Power, as specified in § 25.175(b)(1)(iv), is assumed until recovery is initiated, at which time power reduction and the use of pilot-controlled drag devices may be used.

b. From a speed below V_C/M_C, with power to maintain stabilized level flight at this speed, the airplane is upset so as to accelerate through V_C/M_C at a flight path 15 degrees below the initial path (or at the steepest nose-down attitude that the system will permit with full control authority, if less than 15 degrees). The pilot's controls may be in the neutral position after reaching V_C/M_C and before recovery is initiated. Recovery may be initiated three seconds after operation of the high-speed warning system by application of a load of 1.5g (0.5 acceleration increment), or such greater load factor that is automatically applied by the system with the pilot's pitch control set to neutral. Power may be reduced simultaneously. All other means of decelerating the airplane, the use of which is authorized up to the highest speed reached in the maneuver, may be used. The interval between successive pilot actions must not be less than one second.

2. The applicant must also demonstrate that the speed margin, established as above, will not be exceeded in inadvertent, or gust-induced, upsets resulting in initiation of the dive from non-symmetric attitudes, unless the airplane is protected by the flight-control laws from getting into non-symmetric upset conditions. The upset maneuvers described in AC 25–7C, Chapter 2, Section 8, Paragraph 32c.(3)(a) and (c), may be used to comply with this requirement.

3. Detected loss of the high-speed protection function must be less than 10^{-3} per flight hour.

4. Failures of the system must be annunciated to the pilots. The *Operating Limitations Section* of the AFM must contain instructions that reduce the maximum operating speeds, V_{max}/M_{max}, to a value that maintains a speed margin between these speeds and

V_D/M_D that is consistent with showing compliance to § 25.335(b), without the benefit of the high-speed protection system.

5. Dispatch of the airplane with the high-speed protection system inoperative is prohibited except under an approved MEL that requires AFM instructions to indicate reduced maximum operating speeds, as described in special condition (4), above. In addition, the cockpit display of the reduced operating speeds, as well as the overspeed warning for exceeding those speeds, must be equivalent to that of the normal airplane with the high-speed protection system operative. Also, it must be shown that no additional hazards are introduced with the high-speed protection system inoperative.

Issued in Renton, Washington, on July 30, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–19824 Filed 8–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2013–0908; Special Conditions No. 25–538–SC]

Special Conditions: Airbus Model A350–900 Series Airplane; Airplane Level of Safety Provided by Composite Fuel-Tank Structure: Post-Crash Fire Survivability

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for Airbus Model A350–900 series airplanes. These airplanes will have a novel or unusual design feature associated with the post-crash fire survivability of composite fuel tanks. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective date:* September 22, 2014.

FOR FURTHER INFORMATION CONTACT: Doug Bryant, Propulsion and Mechanical Systems, ANM–112, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2384; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Background

On August 25, 2008, Airbus applied for a type certificate for their new Model A350–900 series airplane. Later, Airbus requested, and the FAA approved, an extension to the application for FAA type certification to November 15, 2009. The Model A350–900 series airplane has a conventional layout with twin wing-mounted Rolls-Royce Trent XWB engines. It features a twin-aisle, 9-abreast, economy-class layout, and accommodates side-by-side placement of LD–3 containers in the cargo compartment. The basic Model A350–900 series airplane configuration accommodates 315 passengers in a standard two-class arrangement. The design cruise speed is Mach 0.85 with a maximum take-off weight of 602,000 lbs.

The Model A350–900 series airplane will be the second large, transport-category airplane certificated with composite wing and fuel-tank structure that may be exposed to the direct effects of post-crash ground, or under-wing, fuel-fed fires. Although the FAA has previously approved fuel tanks made of composite materials located in the horizontal stabilizer of some airplanes, the composite wing structure of the Model A350–900 series airplane will incorporate a new fuel-tank construction into service.

Advisory Circular (AC) 20–107A, *Composite Aircraft Structure,* under the topic of flammability, states:

The existing requirements for flammability and fire protection of aircraft structure attempt to minimize the hazard to the occupants in the event ignition of flammable fluids or vapors occurs. The use of composite structure should not decrease this existing level of safety.

Pertinent to the wing structure, post-crash-fire passenger survivability is dependent on the time available for passenger evacuation prior to fuel-tank breach or structural failure. Structural failure can be a result of degradation in load-carrying capability in the upper or lower wing surface caused by a fuel-fed ground fire. Structural failure can also be a result of over-pressurization caused by ignition of fuel vapors inside the fuel tank.

The inherent capability of aluminum to resist fire has been considered by the FAA in development of the current regulations. Title 14, Code of Federal Regulations (14 CFR) part 25 Chapter 1, Section 1.1, *General Definitions,* defines ''fire resistant'' to mean, with respect to sheet or structural members, the capacity to withstand heat associated with fire at least as well as aluminum alloy does in dimensions appropriate for the purpose for which those materials are used.

Note that aluminum alloy is identified as the performance standard for fire resistance, although no thickness or heat intensities are defined. Based on the performance of aluminum alloy, the definition of ''fire resistance'' was later defined, for testing of other materials in AC 20–135, as the capability to withstand a 2000 °F flame for five minutes.

The FAA has historically issued rules with the assumption that the material of construction for wing and fuselage would be aluminum. As a representative case, 14 CFR 25.963 was issued as a result of a large, fuel-fed fire following the failures of fuel-tank access doors caused by uncontained engine failures. During the subsequent Aviation Rulemaking Advisory Committee (ARAC) harmonization process, the structures group attempted to harmonize § 25.963 regarding the impact-and-fire resistance of the fuel-tank access panels. Discussions between the FAA and the European Aviation Safety Agency (EASA), formerly the European Joint Aviation Authorities (JAA), ensued regarding the need for fire resistance of the fuel-tank access panels. The EASA position was that the FAA requirement for the access panels to be fire resistant, when the surrounding wing structure was not required to be fire resistant, was inconsistent, and that the access panels only needed to be as fire resistant as the surrounding tank structure. The FAA position stated that the fuel-tank access-panel fire-resistance requirement should be retained, and that, long-term, a minimum requirement should be created for the wing skin itself. Both authorities recognized that existing aluminum wing structure provided an acceptable level of safety. Further rulemaking has not yet been pursued.

As with previous Airbus airplane designs with under-wing-mounted engines, the wing tanks and center tanks are located in proximity to the passengers and near the engines. Past experience indicates that post-crash survivability is greatly influenced by the size and intensity of any fire that occurs. The ability of aluminum wing surfaces, wetted by fuel on their interior surface, to withstand post-crash fire conditions, has been demonstrated by tests conducted at the FAA William J.

Hughes Technical Center.[1] Results of these tests have verified adequate dissipation of heat across wetted aluminum fuel-tank surfaces so that localized hot spots do not occur, thus minimizing the threat of explosion. This inherent capability of aluminum to dissipate heat also allows the wing lower surface to retain its load-carrying characteristics during a fuel-fed ground fire, and significantly delay wing collapse or burn-through for a time interval that usually exceeds evacuation times. In addition, as an aluminum fuel tank is heated with significant quantities of fuel inside, fuel vapor accumulates in the ullage space, exceeding the upper flammability limit relatively quickly and thus reducing the threat of a fuel-tank explosion prior to fuel-tank burn-through. Service history of conventional aluminum airplanes has shown that fuel-tank explosions caused by ground fires have been rare on airplanes configured with flame arrestors in the fuel-tank vent lines. Fuel tanks constructed with composite materials may or may not have equivalent capability.

Due to the inherent properties provided by aluminum skin and structure, current regulations may not be adequate as they were developed, and have evolved under the assumption that wing construction would be of aluminum materials. Inherent properties of aluminum, with respect to fuel tanks and fuel-fed fires, are as follows:

- Aluminum is highly thermally conductive and readily transmits the heat of a fuel-fed external fire to fuel in the tank. This has the benefit of rapidly driving the fuel-tank ullage to exceed the upper flammability limit prior to burn-through of the fuel-tank skin, or heating of the wing upper surface above the auto-ignition temperature, thus greatly reducing the threat of fuel-tank explosion.
- Aluminum panels at thicknesses previously used in wing lower surfaces of large, transport-category airplanes have been fire resistant as defined in 14 CFR 1.1 and AC 20–135.
- Heat capacity of aluminum and fuel prevents burn-through or wing collapse for a time interval that generally exceeds the passenger evacuation time.

Type Certification Basis

Under 14 CFR 21.17, Airbus must show that the Model A350–900 series airplane meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–129.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model A350–900 series airplane because of a novel or unusual design feature, special conditions are prescribed under § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

The FAA issues special conditions, as defined in 14 CFR 11.19, under § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

In addition to the applicable airworthiness regulations and special conditions, the Model A350–900 series airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36. The FAA must issue a finding of regulatory adequacy under section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

Novel or Unusual Design Features

The Airbus Model A350–900 series airplane will incorporate the following novel or unusual design feature: Composite fuel tanks.

Discussion

The extensive use of composite materials in the design of the A350–900 airplane wing and fuel-tank structure is considered a major change from conventional and traditional methods of construction, as this will be only the second large, transport-category airplane design to be certificated with this level of composite material for these purposes. The applicable airworthiness regulations do not contain specific standards for post-crash fire-safety performance of wing and fuel-tank skin or structure.

To provide the same level of safety as exists with conventional airplane construction, Airbus must demonstrate that the Model A350–900 series airplane has sufficient post-crash survivability to enable occupants to safely evacuate in the event that the wings are exposed to a large, fuel-fed fire. Factors in fuel-tank survivability are the structural integrity of the wing and tank; flammability of the tank; burn-through resistance of the wing skin; and the presence of auto-ignition threats during exposure to a fire. The FAA assessed post-crash survival time during the adoption of Amendment 25–111 for fuselage burn-through protection. Studies conducted by, and on behalf of, the FAA indicated that, following a survivable accident, prevention of fuselage burn-through for approximately 5 minutes can significantly enhance survivability.[2]

There is little benefit in requiring the design to prevent wing-skin burn-through beyond five minutes, due to the effects of the fuel fire itself on the rest of the airplane. That assessment was carried out based on accidents involving airplanes with conventional fuel tanks, and considering the ability of ground personnel to rescue occupants. In addition, AC 20–135 indicates that, when aluminum is used for fuel tanks, the tank should withstand the effects of fire for 5 minutes without failure. Therefore, to be consistent with existing capability and related requirements, the Model A350–900 series airplane fuel tanks must be capable of resisting a post-crash fire for at least 5 minutes. In demonstrating compliance, Airbus must address a range of fuel loads from minimum to maximum, as well as any other critical fuel load.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Discussion of Comments

Notice of Proposed Special Conditions No. 25–13–24–SC for Airbus Model A350–900 series airplanes was published in the **Federal Register** on January 8, 2014 (79 FR 1334). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions apply to Airbus Model A350–900 series airplanes. Should Airbus apply later for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101.

[1] Hill, R., and Johnson, G.R., ''Investigation of Aircraft Fuel Tank Explosions and Nitrogen Inerting Requirements During Ground Fires,'' FAA Report DOT/FAA/RD–75–119, October 1975. Available via the FAA Technical Center Web site for Fire Safety at *http://www.fire.tc.faa.gov/.*

[2] Cherry, R. and Warren, K. ''Fuselage Burnthrough Protection for Increased Postcrash Occupant Survivability: Safety Benefit Analysis Based on Past Accidents, ''FAA Report DOT/FAA/AR–99/57, September 1999 and R G W Cherry & Associates Limited, ''A Benefit Analysis for Cabin Water Spray Systems and Enhanced Fuselage Burnthrough Protection,'' FAA Report DOT/FAA/AR–02/49, April 7, 2003.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702 and 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type-certification basis for Airbus Model A350–900 series airplanes.

In addition to complying with 14 CFR part 25 regulations governing the fire-safety performance of the fuel tanks, wings, and nacelle, the Airbus Model A350–900 series airplane must demonstrate acceptable post-crash survivability in the event the wings are exposed to a large fuel-fed ground fire. Airbus must demonstrate that the wing and fuel-tank design can endure an external fuel-fed pool fire for at least five minutes. This must be demonstrated for minimum fuel loads (not less than reserve fuel levels) and maximum fuel loads (maximum-range fuel quantities), and other identified critical fuel loads. Considerations must include fuel-tank flammability, burn-through resistance, wing structural-strength retention properties, and auto-ignition threats during a ground-fire event for the required time duration.

Issued in Renton, Washington, on August 1, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–19823 Filed 8–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0124; Directorate Identifier 2012–NM–197–AD; Amendment 39–17944; AD 2014–16–20]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus Model A300 series airplanes. This AD was prompted by an analysis of the impacts of extended service goal activities on Airbus Model A300 series airplanes. This AD requires revising the maintenance or inspection program. We are issuing this AD to prevent failure of flight critical systems.

DATES: This AD becomes effective September 25, 2014.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0124;* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

FOR 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:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus Model A300 series airplanes. The NPRM published in the **Federal Register** on February 28, 2014 (79 FR 11358). The NPRM was prompted by an analysis of the impacts of extended service goal activities on Airbus Model A300 series airplanes. The NPRM proposed to require revising the maintenance program. We are issuing this AD to prevent failure of flight critical systems.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2012–0233, dated November 7, 2012 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition on all Airbus Model A300 series airplanes. The MCAI states:

> The results of the Extended Service Goal (ESG) exercise for A300 series aeroplanes (75,000 flight hours (FH) or 48,000 flight cycles (FC), whichever occurs first) identified certain operational tests as Airworthiness Limitation Items (ALI), necessary to ensure the safety objectives for aeroplanes which have accumulated or exceeded 60,000 FH.
>
> These ALI are not fully new, since all nine tasks derive from existing Maintenance Planning Document (MPD) tasks. Consequently, the intervals of those nine tasks can no longer be escalated or retained at an interval higher than that specified in this [EASA] AD for each task.
>
> Failure to comply with these tasks within the established maximum intervals could be detrimental to the safety of the affected aeroplanes.
>
> For the reasons described above, this [EASA] AD requires the implementation of nine specific operational ALI test for aeroplanes which have accumulated or exceeded 60,000 FH.
>
> In addition, Airbus performed an analysis of the impacts of ESG activities on A300 series aeroplanes and, based on the results, this [EASA] AD publishes an operational life of 75,000 FH or 48,000 FC, whichever occurs first, applicable to A300 system installations.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0124-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (79 FR 11358, February 28, 2014) or on the determination of the cost to the public.

''Contacting the Manufacturer'' Paragraph in This AD

Since late 2006, we have included a standard paragraph titled ''Airworthy Product'' in all MCAI ADs in which the FAA develops an AD based on a foreign authority's AD.

The MCAI or referenced service information in an FAA AD often directs the owner/operator to contact the manufacturer for corrective actions, such as a repair. Briefly, the Airworthy Product paragraph allowed owners/operators to use corrective actions provided by the manufacturer if those actions were FAA-approved. In addition, the paragraph stated that any actions approved by the State of Design Authority (or its delegated agent) are considered to be FAA-approved.

In the NPRM (79 FR 11358, February 28, 2014), we proposed to prevent the use of repairs that were not specifically developed to correct the unsafe condition, by requiring that the repair approval provided by the State of Design Authority or its delegated agent specifically refer to this FAA AD. This change was 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 proposed to change the phrase ''its delegated agent'' to include a design approval holder (DAH) with State of Design Authority design organization approval (DOA), as applicable, to refer to a DAH authorized to approve required repairs for the proposed AD.

No comments were provided to the NPRM (79 FR 11358, February 28, 2014) about these proposed changes. However, a comment was provided for an NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013). The commenter stated the following: ''The proposed wording, being specific to repairs, eliminates the interpretation that Airbus messages are acceptable for approving minor deviations (corrective actions) needed during accomplishment of an AD mandated Airbus service bulletin.''

This comment has made the FAA aware that some operators have misunderstood or misinterpreted the Airworthy Product paragraph to allow the owner/operator to use messages provided by the manufacturer as approval of deviations during the accomplishment of an AD-mandated action. The Airworthy Product paragraph does not approve messages or other information provided by the manufacturer for deviations to the requirements of the AD-mandated actions. The Airworthy Product paragraph only addresses the requirement to contact the manufacturer for corrective actions for the identified unsafe condition and does not cover deviations from other AD requirements. However, deviations to AD-required actions are addressed in 14 CFR 39.17, and anyone may request the approval for an alternative method of compliance to the AD-required actions using the procedures found in 14 CFR 39.19.

To address this misunderstanding and misinterpretation of the Airworthy Product paragraph, we have changed the paragraph and retitled it ''Contacting the Manufacturer.'' This paragraph now clarifies that for any requirement in this AD to obtain corrective actions from a manufacturer, the actions must be accomplished using a method approved by the FAA, the European Aviation Safety Agency (EASA), or Airbus's EASA Design Organization Approval (DOA).

The Contacting the Manufacturer paragraph also clarifies that, if approved by the DOA, the approval must include the DOA-authorized signature. The DOA signature indicates that the data and information contained in the document are EASA-approved, which is also FAA-approved. Messages and other information provided by the manufacturer that do not contain the DOA-authorized signature approval are not EASA-approved, unless EASA directly approves the manufacturer's message or other information.

This clarification does not remove flexibility previously afforded by the Airworthy Product paragraph. Consistent with long-standing FAA policy, such flexibility was never intended for required actions. This is also consistent with the recommendation of the Airworthiness Directive Implementation Aviation Rulemaking Committee to increase flexibility in complying with ADs by identifying those actions in manufacturers' service instructions that are ''Required for Compliance'' with ADs. We continue to work with manufacturers to implement this recommendation. But once we determine that an action is required, any deviation from the requirement must be approved as an alternative method of compliance.

Other commenters to the NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013) pointed out that in many cases the foreign manufacturer's service bulletin and the foreign authority's MCAI might have been issued some time before the FAA AD. Therefore, the DOA might have provided U.S. operators with an approved repair, developed with full awareness of the unsafe condition, before the FAA AD is issued. Under these circumstances, to comply with the FAA AD, the operator would be required to go back to the manufacturer's DOA and obtain a new approval document, adding time and expense to the compliance process with no safety benefit.

Based on these comments, we removed the requirement that the DAH-provided repair specifically refer to this AD. Before adopting such a requirement, the FAA will coordinate with affected DAHs and verify they are prepared to implement means to ensure that their repair approvals consider the unsafe condition addressed in this AD. Any such requirements will be adopted through the normal AD rulemaking process, including notice-and-comment procedures, when appropriate.

We also have decided not to include a generic reference to either the ''delegated agent'' or ''DAH with State of Design Authority design organization approval,'' but instead we have provided the specific delegation approval granted by the State of Design Authority for the DAH throughout this AD.

Conclusion

We reviewed the relevant data 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 (79 FR 11358, February 28, 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 11358, February 28, 2014).

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 7 airplanes 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. Required parts will cost about $0 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $595, or $85 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative,

on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov#!docketDetail;D=FAA-2014-0124;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–16–20 Airbus: Amendment 39–17944. Docket No. FAA–2014–0124; Directorate Identifier 2012–NM–197–AD.

(a) Effective Date

This AD becomes effective September 25, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes, certificated in any category, all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 05 Periodic Inspections; Code 22, Auto Flight; Code 27, Flight Controls.

(e) Reason

This AD was prompted by an analysis of the impacts of extended service goal activities on Airbus Model A300 series airplanes. We are issuing this AD to prevent failure of flight critical systems.

(f) Compliance

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

(g) Revision of Maintenance or Inspection Program

Within 90 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the information specified in Table 1 to paragraph (g) of this AD. The compliance time for doing the initial actions specified in Table 1 to paragraph (g) of this AD is before 60,000 total flight hours accumulated on the airplane, or within 90 days after the effective date of this AD, whichever occurs later.

TABLE 1 TO PARAGRAPH (g) OF THIS AD: INTERVALS FOR NEW AIRWORTHINESS LIMITATION ITEMS

Maintenance planning document task No.	Task description	Interval (not to exceed)	Aircraft maintenance manual reference
273311 0503 1	ARTIFICIAL FEEL-ELEVATOR—Operational test of pitch artificial feel by comparing qualitatively operating loads in high-speed and low-speed configurations (with each individual hydraulic system).	2,500 flight hours	273300/501
273313 0503 1	COMPUTER-ARTIFICIAL FEEL—Operational test of artificial feel ''pitch feel'' and ''rudder travel'' monitoring circuits (warning light test and indicating system test).	3,500 flight hours	272300/501 and 273300/501
222100 0503 1	YAW DAMPER—Operational test to verify correct operation of mechanical control between yaw damper system 2 and the rudder.	80 flight hours	222100/501
222600 0503 1	YAW DAMPER—Operational test to verify correct operation of mechanical control between yaw damper system 2 and the rudder.	80 flight hours	222600/501
272411 0503 1	SERVO CONTROL-RUDDER—Operational test of rudder servo controls (with individual hydraulic system) by moving right-hand (RH) rudder pedal full forward and visually observe that rudder moves to the right. Check that rudder travel is confirmed on the flight control position indicator. Release RH pedal. Repeat above test by moving left-hand rudder pedal.	250 flight hours	271400/501
275400 0503 1	FLAP ASYMMETRY—Operational test of flap asymmetry monitoring circuit (include solenoid operation).	500 flight hours	275400/501
275400 0503 2	FLAP PRESSURE-OFF BRAKE—Operational test of pressure-off brake	1,000 flight hours	275400/501
278300 0503 1	SLAT ASYMMETRY—Operational test of slat asymmetry monitoring circuit	500 flight hours	278300/501
278300 0503 2	SLAT PRESSURE-OFF BRAKE—Operational test of pressure-off brake	1,000 flight hours	278300/501

(h) Airplane Airworthiness Limitation

As of the effective date of this AD, do not operate any airplane beyond 75,000 total flight hours or 48,000 total flight cycles, whichever occurs first.

(i) No Alternative Actions and Intervals

After accomplishing the revision required by paragraph (g) of this AD, no alternative actions (e.g., inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance in accordance with the procedures specified in paragraph (j)(1) of this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: 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.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must

be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2012–0233, dated November 7, 2012, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0124-0002.*

(l) Material Incorporated by Reference

None.

Issued in Renton, Washington, on August 4, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–19549 Filed 8–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–1065; Directorate Identifier 2011–NM–230–AD; Amendment 39–17915; AD 2014—15–13]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2005–15–04 for certain Bombardier, Inc. Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601), and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) airplanes. AD 2005–15–04 required operators to assign serial numbers or part numbers to certain landing gear parts; establish the number of landings on the parts, if necessary; and revise the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness (ICA) to reflect the new life limits of the landing gear parts. This new AD adds airplanes to the applicability, requires operators to assign serial numbers or part numbers to certain additional landing gear parts to establish the number of landings on the parts if necessary, and requires operators to record in all required airplane technical records and manuals the new part numbers, serial numbers, and landings assigned to these parts. This AD was prompted by reports that landing gear parts that have safe-life limits but do not have serial numbers or part numbers can be removed from one landing gear and re-installed on another, making tracking difficult. We are issuing this AD to prevent life-limited landing gear parts from being used beyond their safe-life limits, which could lead to collapse of the landing gear.

DATES: This AD becomes effective September 25, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of September 25, 2014.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of August 30, 2005 (70 FR 43032, July 26, 2005).

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-1065;* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For Bombardier, Inc./Canadair service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* For Messier-Dowty service information identified in this AD, contact Messier Services Americas, Customer Support Center, 45360 Severn Way, Sterling, VA 20166–8910; phone: 703–450–8233; fax: 703–404–1621; Internet: *https://techpubs.services/messier-dowty.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.

FOR FURTHER INFORMATION CONTACT: Andreas Rambalakos, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone (516) 228–7345; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2005–15–04, Amendment 39–14193 (70 FR 43032, July 26, 2005). AD 2005–15–04 applied to certain Bombardier, Inc. Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601), and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) airplanes. The NPRM published in the **Federal Register** on December 30, 2013 (78 FR 79329). The NPRM was prompted by reports that landing gear parts that have safe-life limits but do not have serial numbers or part numbers can be removed from one landing gear and re-installed on another, making tracking difficult. The NPRM proposed to add airplanes to the applicability, require operators to assign serial numbers or part numbers to certain additional landing gear parts to establish the number of landings on the parts if necessary, and requires operators to record in all required airplane technical records and manuals the new part numbers, serial numbers, and landings assigned to these parts. We are issuing this AD to prevent life-limited landing gear parts from being used beyond their safe-life limits, which could lead to collapse of the landing gear.

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, has issued Canadian Airworthiness Directives CF–2003–18R2, dated September 28, 2011; CF–2003–20R1, dated September 28, 2011; and CF–2003–21R2, dated September 28, 2011 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''); to correct an unsafe condition for certain Bombardier, Inc. Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601), and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) airplanes. The MCAI states:

> Certain landing gear parts that are listed in the aeroplane model Airworthiness Limitations Section, as safe life items with structural life limits, could be rotable and may not have been serialized, making tracking difficult. This [Canadian airworthiness] directive mandates that such parts be serialized. This [Canadian airworthiness] directive also provides the procedure to determine the number of landings for those parts where the service history cannot be established.
>
> * * * * *
>
> [T]his [Canadian Airworthiness] directive * * * mandate[s] serialization of * * * additional landing gear parts.

This AD also adds airplanes to the applicability. The unsafe condition is using life-limited landing gear parts beyond their safe-life limits, which could lead to collapse of the landing gear. You may examine the MCAI in the

AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-1065-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (78 FR 79329, December 30, 2013) or on the determination of the cost to the public.

''Contacting the Manufacturer'' Paragraph in This AD

Since late 2006, we have included a standard paragraph titled ''Airworthy Product'' in all MCAI ADs in which the FAA develops an AD based on a foreign authority's AD.

We have become aware that some operators have misunderstood or misinterpreted the Airworthy Product paragraph to allow the owner/operator to use messages provided by the manufacturer as approval of deviations during the accomplishment of an AD-mandated action. The Airworthy Product paragraph does not approve messages or other information provided by the manufacturer for deviations to the requirements of the AD-mandated actions. The Airworthy Product paragraph only addresses the requirement to contact the manufacturer for corrective actions for the identified unsafe condition and does not cover deviations from other AD requirements. However, deviations to AD-required actions are addressed in 14 CFR 39.17, and anyone may request the approval for an alternative method of compliance to the AD-required actions using the procedures found in 14 CFR 39.19.

To address this misunderstanding and misinterpretation of the Airworthy Product paragraph, we have changed the paragraph and retitled it ''Contacting the Manufacturer.'' This paragraph now clarifies that for any requirement in this AD to obtain corrective actions from a manufacturer, the actions must be accomplished using a method approved by the FAA, Transport Canada Civil Aviation (TCCA), or Bombardier's TCCA Design Approval Organization (DAO).

The Contacting the Manufacturer paragraph also clarifies that, if approved by the DAO, the approval must include the DAO-authorized signature. The DAO signature indicates that the data and information contained in the document are TCCA-approved, which is also FAA-approved. Messages and other information provided by the manufacturer that do not contain the DAO-authorized signature approval are not TCCA-approved, unless TCCA directly approves the manufacturer's message or other information.

This clarification does not remove flexibility previously afforded by the Airworthy Product paragraph. Consistent with long-standing FAA policy, such flexibility was never intended for required actions. This is also consistent with the recommendation of the Airworthiness Directive Implementation Aviation Rulemaking Committee to increase flexibility in complying with ADs by identifying those actions in manufacturers' service instructions that are ''Required for Compliance'' with ADs. We continue to work with manufacturers to implement this recommendation. But once we determine that an action is required, any deviation from the requirement must be approved as an alternative method of compliance.

We also have decided not to include a generic reference to either the ''delegated agent'' or ''design approval holder (DAH) with State of Design Authority design organization approval,'' but instead we have provided the specific delegation approval granted by the State of Design Authority for the DAH throughout this AD.

Conclusion

We reviewed the available data 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 79329, December 30, 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 79329, December 30, 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 419 airplanes of U.S. registry.

The actions that were required by AD 2005–15–04, Amendment 39–14193 (70 FR 43032, July 26, 2005), that are retained in this AD take up to 13 work-hours per product, at an average labor rate of $85 per work hour. Based on these figures, the estimated cost of the currently required actions is up to $1,105 per product.

We estimate that it would take about 9 work-hours per product to comply with the new 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 $320,535, or $765 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-1065*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2005–15–04, Amendment 39–14193 (70 FR 43032, July 26, 2005), and adding the following new AD:

2014–15–13 Bombardier, Inc.: Amendment 39–17915. Docket No. FAA–2013–1065; Directorate Identifier 2011–NM–230–AD.

(a) Effective Date

This AD becomes effective September 25, 2014.

(b) Affected ADs

This AD replaces AD 2005–15–04, Amendment 39–14193 (70 FR 43032, July 26, 2005).

(c) Applicability

This AD applies to Bombardier, Inc. airplanes, certificated in any category, as identified in paragraphs (c)(1) through (c)(4) of this AD.

(1) Model CL–600–1A11 (CL–600) airplanes, serial numbers 1004 through 1085 inclusive.

(2) Model CL–600–2A12 (CL–601) airplanes, serial numbers 3001 through 3066 inclusive;

(3) Model CL–600–2B16 (CL–601–3A and CL–601–3R Variants) airplanes, serial numbers 5001 through 5194 inclusive.

(4) Model CL–600–2B16 (CL–604 Variant) airplanes, serial numbers 5301 through 5573 inclusive, 5579, and 5595.

(5) This AD requires revisions to certain operator maintenance documents to include new actions (e.g., inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (r) of this AD. The request should include a description of changes to the required actions that will ensure the continued damage tolerance of the affected structure.

(d) Subject

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

(e) Reason

This AD was prompted by reports that landing gear parts that have safe-life limits but do not have serial numbers (S/Ns) or part numbers (P/Ns) can be removed from one landing gear and re-installed on another, making tracking difficult. We are issuing this AD to prevent life-limited landing gear parts from being used beyond their safe-life limits, which could lead to collapse of the landing gear.

(f) Compliance

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

(g) Retained Requirement To Add S/Ns or P/Ns

This paragraph restates the actions required by paragraph (f) of AD 2005–15–04, Amendment 39–14193 (70 FR 43032, July 26, 2005), with revised affected airplanes. Except for Model CL–600–2B16 airplanes having S/Ns 5514 through 5595 inclusive: At the applicable compliance time specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD, add serial numbers and part numbers, as applicable, to the parts identified in the applicable service bulletin specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD. Do all actions in accordance with the applicable service bulletin specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD.

(1) For parts identified in Bombardier Service Bulletin 600–0710, Revision 01, dated December 15, 2003; and Bombardier Service Bulletin 601–0546, Revision 01, dated December 15, 2003; as having a compliance time of ''five years for the parts listed in Part A'': Within 60 months after August 30, 2005 (the effective date of AD 2005–15–04, Amendment 39–14193 (70 FR 43032, July 26, 2005)).

(2) For parts identified in Bombardier Service Bulletin 600–0710, Revision 01, dated December 15, 2003; and Bombardier Service Bulletin 601–0546, Revision 01, dated December 15, 2003; as having a compliance time of ''ten years for the parts listed in Part B'': Within 120 months after August 30, 2005 (the effective date of AD 2005–15–04, Amendment 39–14193 (70 FR 43032, July 26, 2005)).

(3) For parts identified in Bombardier Service Bulletin 604–32–014, dated May 31, 2002, as having a compliance time of ''no later than a calendar time of 8 years'': Within 96 months after August 30, 2005 (the effective date of AD 2005–15–04, Amendment 39–14193 (70 FR 43032, July 26, 2005)).

Note 1 to paragraph (g) of this AD: The Bombardier service bulletins identified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD refer to the Messier-Dowty service bulletins identified in table 1 to paragraph (g) of this AD as additional sources of guidance for adding part numbers or serial numbers by vibro-peening the numbers on main landing gear (MLG) and nose landing gear (NLG) components that do not have them; and for determining the number of landings for parts without a part number or serial number on which the time since new (TSN) and cycles since new (CSN) have not been tracked.

TABLE 1 TO PARAGRAPH (g) OF THIS AD—MESSIER-DOWTY SERVICE BULLETINS

Model—	Landing gear component—	Corresponding bombardier service bulletin(s)—	Messier–Dowty service bulletin—
CL–600–1A11 (CL–600), CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes.	MLG side strut retraction actuator eye bolt.	600–0710 and 601–0546.	M–DT SB104467009/010–32–1, dated March 19, 2001.
CL–600–2B16 (CL–604) airplanes	MLG shock strut	604–32–014	M–DT SB19090–32–4, dated March 19, 2001.
CL–600–2B16 (CL–604) airplanes	NLG shock strut	604–32–014	M–DT SB20020–32–5, dated July 12, 2001.
CL–600–1A11 (CL–600), CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes.	NLG drag brace hinge pin.	600–0710 and 601–0546.	M–DT SB200814001–32–3, dated March 19, 2001.
CL–600–1A11 (CL–600) airplanes	MLG shock strut	600–0710	M–DT SB200922001/2–32–6, dated March 19, 2001.
CL–600–1A11 (CL–600) airplanes	NLG shock strut	600–0710	M–DT SB200924003/004–32–16, dated July 12, 2001.
CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes.	MLG shock strut pin	601–0546	M–DT SB6100–32–10, dated March 19, 2001.

TABLE 1 TO PARAGRAPH (g) OF THIS AD—MESSIER-DOWTY SERVICE BULLETINS—Continued

Model—	Landing gear component—	Corresponding bombardier service bulletin(s)—	Messier–Dowty service bulletin—
CL–600–1A11 (CL–600), CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes.	MLG side strut retraction actuator.	600–0710 and 601–0546.	M–DT SB6500–32–1, dated March 19, 2001.
CL–600–1A11 (CL–600), CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes.	NLG drag brace hinge pin.	600–0710 and 601–0546.	M–DT SB7200–32–6, dated March 19, 2001.
CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes.	NLG shock strut	601–0546	M–DT SB7300–32–16, dated July 12, 2001.

(h) Retained Requirement—Establishment of the Number of Landings

This paragraph restates the actions required by paragraph (g) of AD 2005–15–04, Amendment 39–14193 (70 FR 43032, July 26, 2005), with revised affected airplanes. Except for Model CL–600–2B16 airplanes having S/Ns 5314 through 5595 inclusive: At the applicable time specified in paragraph (g) of this AD, if a component does not have a serial number and the CSN or TSN were not tracked, use the formula in the applicable Messier-Dowty service bulletin specified in table 1 to paragraph (g) of this AD to establish the TSN or CSN, and record the newly calculated TSN or CSN in the airplane log books.

(i) Retained Requirement To Revise the Airworthiness Limitations Section (ALS)

This paragraph restates the revision required by paragraph (h) of AD 2005–15–04, Amendment 39–14193 (70 FR 43032, July 26, 2005), with revised affected airplanes. Except for Model CL–600–2B16 airplanes having S/Ns 5514 through 5595 inclusive: Within 30 days after August 30, 2005 (the effective date of AD 2005–15–04), revise the ALS of the applicable Instructions for Continued Airworthiness to reflect the new life limits of the landing gear parts by inserting copies of the Canadair temporary revisions (TR) specified in table 2 to paragraph (i) of this AD into the ALS of the applicable Canadair Time-Limits/Maintenance Check Manual. When the contents of the TRs are included in the general revisions of the ALS, these TRs may be removed provided the relevant information in the ALS is identical to that in the TRs.

TABLE 2 TO PARAGRAPH (i) OF THIS AD—CANADAIR TEMPORARY REVISIONS

Model—	Canadair temporary revision—	Manual section—	Applicable canadair time–limits/maintenance check manual—
CL–600–1A11 (CL–600) airplanes	5–116, dated April 11, 2002 ...	5–10–10	PSP 605.
CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes.	5–190, dated April 11, 2002 ...	5–10–10	PSP 601–5.
CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes.	5–191, dated April 11, 2002 ...	5–10–11	PSP 601–5.
CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes.	5–192, dated April 11, 2002 ...	5–10–12	PSP 601–5.
CL–600–2B16 (CL–604) airplanes	5–2–6, dated April 11, 2002 ...	5–10–10	CL–604.
CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes.	5–204, dated April 11, 2002 ...	5–10–10	PSP 601A–5.
CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes.	5–205, dated April 11, 2002 ...	5–10–11	PSP 601A–5.
CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A and CL–601–3R) airplanes.	5–206, dated April 11, 2002 ...	5–10–12	PSP 601A–5.

(j) Retained Parts Installation Limitation

This paragraph restates the limitations specified in paragraph (i) of AD 2005–15–04, Amendment 39–14193 (70 FR 43032, July 26, 2005), with revised affected airplanes. Except for Model CL–600–2B16 airplanes having serial numbers 5514 through 5595 inclusive: As of August 30, 2005 (the effective date of AD 2005–15–04), no person may install on any airplane a landing gear part, unless it has had the applicable part number or serial number added in accordance with paragraph (g) of this AD; and has had the number of landings established in accordance with paragraph (h) of this AD.

(k) Retained Stipulation of Information of No Reporting

This paragraph restates the stipulation specified in paragraph (j) of AD 2005–15–04, Amendment 39–14193 (70 FR 43032, July 26, 2005). Although the service bulletins identified in paragraph (g) of this AD specify that operators should submit incorporation notices to Bombardier after each new part number or serial number and landings assigned to these parts is added, this AD does not include that action.

(l) New Requirement of this AD: Add Serial Numbers and Part Numbers

(1) For Model CL–600–2B16 (CL–604 Variant) airplanes: Within 96 months after the effective date of this AD, add serial numbers and part numbers, as applicable, to the parts identified in paragraphs (l)(1)(i) and (l)(1)(ii) of this AD, as applicable, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 604–32–014, Revision 02, dated May 9, 2011, including Appendix 1, dated May 9, 2011, and Service Bulletin Information Sheet, dated July 6, 2010.

(i) For airplanes having S/Ns 5301 through 5513 inclusive: Main fitting/drag stay pin of the NLG having P/N 200811721.

(ii) For airplanes having S/Ns 5301 through 5573 inclusive, 5579, and 5595: NLG crossbeam pins having P/N 200814601 and NLG center hinge pins having P/N 200814624.

(2) For Bombardier Model CL–600–2A12 (CL–601) airplanes and Model CL–600–2B16 (CL–601–3A and CL–601–3R Variants) airplanes: Within 60 months after the effective date of this AD, add serial numbers and part numbers, as applicable, to left and right MLG side strut pins having P/N 6318–1 or 6318–3; and to left and right MLG hinge pins having P/N 6329–3; in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 601–0546, Revision 03, dated May 9, 2011, including Appendix 1, dated May 9, 2011, and Service

Bulletin Information Sheet, dated July 6, 2010.

(3) For Bombardier Model CL–600–2A12 (CL–601) airplanes and Model CL–600–2B16 (CL–601–3A and CL–601–3R Variants) airplanes: Within 120 months after the effective date of this AD, add serial numbers and part numbers, as applicable, to NLG main fitting/drag stay pins having P/N 200811721; NLG drag brace pivot pins having P/N 200814601; and left and right MLG pintle pins having P/N 6324–1; in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 601–0546, Revision 03, dated May 9, 2011, including Appendix 1, dated May 9, 2011, and Service Bulletin Information Sheet, dated July 6, 2010.

(4) For Bombardier Model CL–600–1A11 (CL–600) airplanes: Within 120 months after the effective date of this AD, add serial numbers and part numbers, as applicable, to NLG main fitting/drag stay pins having P/N 200811721 and NLG drag brace pivot pins having P/N 200814601, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 600–0710, Revision 03, dated May 9, 2011, including Appendix 1, dated May 9, 2011, and Service Bulletin Information Sheet, dated July 6, 2010.

(m) New Requirement of This AD: Establish the Number of Landings (CSN)

At the applicable times specified in paragraph (l) of this AD: If a component does not have a serial number and the CSN were not tracked, use Appendix 1, dated May 9, 2011, of the applicable service bulletin specified in paragraph (m)(1), (m)(2), or (m)(3) of this AD to establish the number of landings (CSN).

(1) Bombardier Service Bulletin 604–32–014, Revision 02, dated May 9, 2011, including Service Bulletin Information Sheet, dated July 6, 2010 (for Bombardier Model CL–600–2B16 (CL–604 Variant) airplanes).

(2) Bombardier Service Bulletin 601–0546, Revision 03, dated May 9, 2011, including Service Bulletin Information Sheet, dated July 6, 2010 (for Model CL–600–2A12 (CL–601) airplanes and Model CL–600–2B16 (CL–601–3A and CL–601–3R Variants) airplanes).

(3) Bombardier Service Bulletin 600–0710, Revision 03, dated May 9, 2011, including Service Bulletin Information Sheet, dated July 6, 2010 (for Bombardier Model CL–600–1A11 (CL–600) airplanes).

(n) New Requirement of This AD: Records Update

Concurrently with the actions specified in paragraphs (l) and (m) of this AD: Record any newly calculated CSN, new part numbers, and new serial numbers in the airplane technical records and manuals.

(o) New Requirement of This AD: Parts Installation Limitation

As of the effective date of this AD, no person may install on any airplane a landing gear part identified in paragraph (l) of this AD, unless it has had the applicable part number or serial number added as required by paragraph (l) of this AD, and had the CSN established as required by paragraph (m) of this AD.

(p) New Action of This AD: Optional Method of Compliance

Accomplishing the action required by paragraph (g) of this AD, in accordance with the Accomplishment Instructions of the applicable service bulletin specified in paragraph (p)(1), (p)(2), or (p)(3) of this AD, is acceptable for compliance with the requirements of paragraph (g) of this AD.

(1) Bombardier Service Bulletin 601–0546, Revision 03, dated May 9, 2011, including Appendix 1, dated May 9, 2011, and Service Bulletin Information Sheet, dated July 6, 2010 (for Model CL–600–2A12 (CL–601) airplanes and Model CL–600–2B16 (CL–601–3A and CL–601–3R Variants) airplanes).

(2) Bombardier Service Bulletin 604–32–014, Revision 02, dated May 9, 2011, including Appendix 1, dated May 9, 2011, and Service Bulletin Information Sheet, dated July 6, 2010 (for Model CL–600–2B16 (CL–604 Variant) airplanes).

(3) Bombardier Service Bulletin 600–0710, Revision 03, dated May 9, 2011, including Appendix 1, dated May 9, 2011, and Service Bulletin Information Sheet, dated July 6, 2010 (for Model CL–600–1A11 (CL–600) airplanes).

(q) Credit for Previous Actions

(1) This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before August 30, 2005 (the effective date of AD 2005–15–04, Amendment 39–14193 (70 FR 43032, July 26, 2005)), using the applicable service bulletin specified in paragraph (q)(1)(i), (q)(1)(ii), or (q)(1)(iii) of this AD, which are not incorporated by reference in this AD.

(i) Bombardier Service Bulletin 601–0546, dated May 31, 2002 (for Model CL–600–2A12 (CL–601) airplanes and Model CL–600–2B16 (CL–601–3A and CL–601–3R Variants) airplanes).

(ii) Bombardier Service Bulletin 600–0710, dated May 31, 2002 (for ModelCL–600–1A11 (CL–600) airplanes).

(iii) Bombardier Service Bulletin 604–32–014, dated May 31, 2002 (for Model CL–600–2B16 (CL–604 Variant) airplanes).

(2) This paragraph provides credit for the addition of serial numbers and part numbers required by paragraph (l) of this AD, if those actions were performed before the effective date of this AD using the applicable service bulletin specified in paragraph (q)(2)(i), (q)(2)(ii), or (q)(2)(iii) of this AD, which are not incorporated by reference in this AD.

(i) Bombardier Service Bulletin 604–32–014, Revision 01, dated October 29, 2007 (for Bombardier Model CL–600–2B16 (CL–604 Variant) airplanes).

(ii) Bombardier Service Bulletin 601–0546, Revision 02, dated October 29, 2007 (for Model CL–600–2A12 (CL–601) airplanes and Model CL–600–2B16 (CL–601–3A and CL–601–3R Variants) airplanes).

(iii) Bombardier Service Bulletin 600–0710, Revision 02, dated October 29, 2007 (for Bombardier Model CL–600–1A11 (CL–600) airplanes).

(3) This paragraph provides credit for the establishment of the CSN required by paragraph (m) of this AD, if those actions were performed before the effective date of this AD using the applicable service bulletin information sheet specified in paragraph (q)(3)(i), (q)(3)(ii), or (q)(3)(iii) of this AD.

(i) Service Bulletin Information Sheet, dated July 6, 2010, of Bombardier Service Bulletin 604–32–014, Revision 01, dated October 29, 2007 (for Bombardier Model CL–600–2B16 (CL–604 Variant) airplanes).

(ii) Service Bulletin Information Sheet, dated July 6, 2010, of Bombardier Service Bulletin 601–0546, Revision 02, dated October 29, 2007 (for Bombardier Model CL–600–2A12 (CL–601) and Model CL–600–2B16 (CL–601–3A and CL–601–3R Variants) airplanes).

(iii) Service Bulletin Information Sheet, dated July 6, 2010, of Bombardier Service Bulletin 600–0710, Revision 02, dated October 29, 2007 (for Bombardier Model CL–600–1A11 (CL–600) airplanes).

(r) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, 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 ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. 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 in accordance with AD 2005–15–04, Amendment 39–14193 (70 FR 43032, July 26, 2005), are approved as AMOCs for the corresponding provisions of this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, Engine and Propeller Directorate, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(s) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directives specified in paragraphs (s)(1)(i), (s)(1)(ii), and (s)(1)(iii) of this AD for related information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-1065-0002.*

(i) Canadian Airworthiness Directive CF–2003–18R2, dated September 28, 2011.

(ii) Canadian Airworthiness Directive CF–2003–20R1, dated September 28, 2011.

(iii) Canadian Airworthiness Directive CF–2003–21R2, dated September 28, 2011.

(2) Service information identified in this AD that is not incorporated by reference in this AD may be obtained at the addresses specified in paragraphs (t)(5) and (t)(6) of this AD.

(t) 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.

(3) The following service information was approved for IBR on September 25, 2014.

(i) Bombardier Service Bulletin 600–0710, Revision 03, dated May 9, 2011, including Appendix 1, dated May 9, 2011, and Service Bulletin Information Sheet, dated July 6, 2010.

(ii) Bombardier Service Bulletin 601–0546, Revision 03, dated May 9, 2011, including Appendix 1, dated May 9, 2011, and Service Bulletin Information Sheet, dated July 6, 2010.

(iii) Bombardier Service Bulletin 604–32–014, Revision 02, dated May 9, 2011, including Appendix 1, dated May 9, 2011, and Service Bulletin Information Sheet, dated July 6, 2010.

(4) The following service information was approved for IBR on August 30, 2005 (70 FR 43032, July 26, 2005).

(i) Bombardier Service Bulletin 600–0710, Revision 01, dated December 15, 2003.

(ii) Bombardier Service Bulletin 601–0546, Revision 01, dated December 15, 2003.

(iii) Bombardier Service Bulletin 604–32–014, dated May 31, 2002.

(iv) Canadair Temporary Revision 5–116, dated April 11, 2002.

(v) Canadair Temporary Revision 5–190, dated April 11, 2002.

(vi) Canadair Temporary Revision 5–191, dated April 11, 2002.

(vii) Canadair Temporary Revision 5–192, dated April 11, 2002.

(viii) Canadair Temporary Revision 5–2–6, dated April 11, 2002.

(ix) Canadair Temporary Revision 5–204, dated April 11, 2002.

(x) Canadair Temporary Revision 5–205, dated April 11, 2002.

(xi) Canadair Temporary Revision 5–206, dated April 11, 2002.

(xii) Messier-Dowty Service Bulletin M–DT SB104467009/010–32–1, dated March 19, 2001.

(xiii) Messier-Dowty Service Bulletin M–DT SB19090–32–4, dated March 19, 2001.

(xiv) Messier-Dowty Service Bulletin M–DT SB20020–32–5, dated July 12, 2001.

(xv) Messier-Dowty Service Bulletin M–DT SB200814001–32–3, dated March 19, 2001.

(xvi) Messier-Dowty Service Bulletin M–DT SB200922001/2–32–6, dated March 19, 2001.

(xvii) Messier-Dowty Service Bulletin M–DT SB200924003/004–32–16, dated July 12, 2001.

(xviii) Messier-Dowty Service Bulletin M–DT SB6100–32–10, dated March 19, 2001.

(xix) Messier-Dowty Service Bulletin M–DT SB6500–32–1, dated March 19, 2001.

(xx) Messier-Dowty Service Bulletin M–DT SB7200–32–6, dated March 19, 2001.

(xxi) Messier-Dowty Service Bulletin M–DT SB7300–32–16, dated July 12, 2001.

(5) For Bombardier, Inc./Canadair service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* For Messier-Dowty service information identified in this AD, contact Messier Services Americas, Customer Support Center, 45360 Severn Way, Sterling, VA 20166–8910.

(6) 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.

(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 July 17, 2014.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–17549 Filed 8–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0511; Directorate Identifier 2014–CE–023–AD; Amendment 39–17953; AD 2014–15–51]

RIN 2120–AA64

Airworthiness Directives; Embraer S.A. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Embraer S.A. Model EMB–500 airplanes. This AD was sent previously to all known U.S. owners and operators of these airplanes as an emergency AD. This AD requires an inspection and replacement as necessary of the barrel nuts at the horizontal stabilizer to vertical stabilizer attachment joint. This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cracking of the barrel nuts at the horizontal stabilizer to vertical stabilizer attachment joint. We are issuing this AD to correct the unsafe condition on these products.

DATES: This AD is effective August 21, 2014 to all persons except those persons to whom it was made immediately effective by Emergency AD 2014–15–51, issued on July 25, 2014, which contained the requirements of this amendment.

The Director of the Federal Register approved the incorporation by reference of a certain publication identified in this AD as of August 21, 2014.

We must receive comments on this AD by October 6, 2014.

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

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

For service information identified in this AD, contact: EMBRAER S.A., Phenom Maintenance Support, Avenida Brigadeiro Faria Lima, 2170, Putim, CEP: 12227–901, Sao Jose dos Campos, Sao Paulo, Brasil; phone: (+55 12) 3927–1000; Fax: (+55 12) 3927–6600, Ext. 1448; email: *phenom.reliability@embraer.com.br:* Internet: *http://www.embraerexecutivejets.com/en-US/customer-support/Pages/Service-Center-Network.aspxt.*

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–2014–0511; or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106;

telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On July 25, 2014, we issued Emergency AD 2014–15–51, which requires inspection and replacement as necessary of the barrel nuts at the horizontal stabilizer to vertical stabilizer attachment joint on Embraer S.A. Model EMB–500 airplanes. This emergency AD was sent previously to all known U.S. owners and operators of these airplanes. This action was prompted the Agencia Nacional De Aviacao Civil (ANAC), which is the aviation authority for Brazil, issuing emergency AD No.: 2014–07–02, dated July 25, 2014 (referred to after this as ''the MCAI''), to correct an unsafe condition for Embraer S.A. Model EMB–500 airplanes. The MCAI states:

> This EAD results from a report of cracking in the barrel nuts at the horizontal stabilizer-to-vertical stabilizer attachment joint found during an inspection at the assembly line. This EAD is being issued to detect and correct cracking of the barrel nuts at the horizontal stabilizer-to-vertical stabilizer attachment joint, which could result in reduced structural integrity of the affected part and consequent detachment of the horizontal stabilizer from the airplane.
>
> Since this condition may exist in other airplanes of the same type and affects flight safety, an immediate corrective action is required. Thus, sufficient reason exists to request compliance with this EAD in the indicated time limit without prior notice.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0511.

Relevant Service Information

Embraer S.A. has issued Phenom Alert Service Bulletin No. 500–55–A004, Revision 02, dated July 25, 2014. The actions described in this service bulletin are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination

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 this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all information provided by the State of Design Authority and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

AD Requirements

This AD requires an inspection and replacement as necessary of the barrel nuts at the horizontal stabilizer to vertical stabilizer attachment joint. This AD also requires sending the inspection results to Embraer.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because of a report of cracking in the barrel nuts at the horizontal stabilizer-to-vertical stabilizer attachment joint found during an inspection at the assembly line. This condition could result in reduced structural integrity of the affected part and consequent detachment of the horizontal stabilizer from the airplane. Since this condition may exist in other airplanes of the same type and affects flight safety, an immediate corrective action is required. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2014–0511 and Directorate Identifier 2014–CE–023–AD at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Costs of Compliance

We estimate that this AD will affect 45 products of U.S. registry. We also estimate that it would take about 2.5 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 the AD on U.S. operators to be $9,562.50 or $212.50 per product.

In addition, we estimate that any necessary follow-on actions would take about 2 work-hours and require parts costing $150, for a cost of $320 per product. We have no way of determining the number of products that may need these actions.

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to 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 control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is 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.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority

because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–15–51 Embraer S.A.: Amendment 39–17953; Docket No. FAA–2014–0511; Directorate Identifier 2014–CE–023–AD.

(a) Effective Date

This AD is effective September 5, 2014 to all persons except those persons to whom it was made immediately effective by Emergency AD 2014–15–51, issued on July 25, 2014, which contained the requirements of this amendment.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Embraer S.A. Model EMB–500 airplanes, serial numbers 50000218 through 50000333, 50000336, 50000337, 50000339, and 50000341, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 55, Stabilizers.

(e) Unsafe Condition

This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cracking of the barrel nuts at the horizontal stabilizer to vertical stabilizer attachment joint. We are issuing this AD to detect and correct cracking of the barrel nuts at the horizontal stabilizer to vertical stabilizer attachment joint that could result in reduced structural integrity of the affected part and consequent detachment of the horizontal stabilizer from the airplane.

(f) Compliance

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

(g) Inspection

Before further flight after the effective date of this AD, inspect all of the barrel self-locking nuts at the horizontal stabilizer to vertical stabilizer joint following the ACCOMPLISHMENT INSTRUCTIONS in Embraer S.A. Phenom Alert Service Bulletin No. 500–55–A004, Revision 02, dated July 25, 2014.

(h) Replacement

If, during the inspection required in paragraph (g) of this AD, any of the barrel nuts are found to be part number (P/N) NAS577B7A, before further flight, replace the applicable barrel nuts with new barrel nut P/N RMLH2577–070 following the ACCOMPLISHMENT INSTRUCTIONS in Embraer S.A. Phenom Alert Service Bulletin No. 500–55–A004, Revision 02, dated July 25, 2014.

(i) Reporting Requirement

Within 10 days after the inspection required in paragraph (g) of this AD, send the inspection results to Embraer using the ''Service Bulletin Implementation and Evaluation Form'' available on the Internet in the FLYEmbraer portal at: *www.flyembraer.com.*

(j) Credit for Actions Accomplished in Accordance With Previous Service Information

This AD provides credit for the actions required in paragraphs (g), (h) and (i) of this AD, if those actions were performed before the effective date of this AD, using Embraer S.A. Phenom Alert Service Bulletin No. 500–55–A004, Revision 01, dated July 24, 2014, or Embraer S.A. Phenom Alert Service Bulletin No. 500–55–A004, Basic Revision, dated July 21, 2014.

(k) Special Flight Permit

No special flight permits allowed.

(l) Paperwork Reduction Act Burden Statement

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.

(m) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Standards Office, Small Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (n) of this AD.

(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.

(n) Related Information

(1) For more information about this AD, contact: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.*

(2) Refer to MCAI Agencia De Aviacao Civil (ANAC) AD No.: 2014–07–02, dated July 25, 2014, and MCAI ANAC AD No.: 2014–07–03, dated July 25, 2014 for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0511.

Note 1 to paragraph (n)(2) of this AD: After the FAA issued Emergency AD 2014–15–51, ANAC issued AD No.: 2014–07–03, dated July 25, 2014, to supersede ANAC AD.: No. 2014–07–02. All requirement changes were incorporated into FAA emergency AD 2014–15–51 and are incorporated into this AD.

(o) 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) Embraer S.A. Phenom Alert Service Bulletin No. 500–55–A004, Revision 02, dated July 25, 2014

(ii) Reserved.

(3) For Embraer S.A. service information identified in this AD, contact: EMBRAER S.A., Phenom Maintenance Support, Avenida Brigadeiro Faria Lima, 2170, Putim, CEP: 12227–901, Sao Jose dos Campos, Sao Paulo, Brasil; phone: (+55 12) 3927–1000; Fax: (+55 12) 3927–6600, Ext. 1448; email: *phenom.reliability@embraer.com.br:* Internet: *http://www.embraerexecutivejets.com/en-US/customer-support/Pages/Service-Center-Network.aspxt.*

(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 August 11, 2014.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–19365 Filed 8–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0251; Directorate Identifier 2013–NM–179–AD; Amendment 39–17946; AD 2014–16–22]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus Model A330–200 Freighter, A330–200, A330–300, and A340–200, A340–300, A340–500, and A340–600 series airplanes. This AD was prompted by a determination that the service life limits of the cabin pressure control system (CPCS) safety valves installed on the aft pressure bulkhead were being exceeded. This AD requires repetitive replacement of the CPCS safety valves with serviceable valves. We are issuing this AD to prevent exceeding the service life limits of the CPCS safety valves, which, in the event of a failure, could result in excessive positive or negative differential pressure in the fuselage and consequent incapacitation or injuries to airplane occupants.

DATES: This AD becomes effective September 25, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of September 25, 2014.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0251;* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@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.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus Model A330–200 Freighter, A330–200, A330–300, and A340–200, A340–300, A340–500, and A340–600 series airplanes. The NPRM published in the **Federal Register** on May 15, 2014 (79 FR 27814).

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2013–0201, dated September 4, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information to correct an unsafe condition on all Airbus Model A330–200 Freighter, A330–200, A330–300, and A340–200, –300, –500, and –600 series airplanes. The MCAI states:

> Investigation results on the Cabin Pressure Control System (CPCS) safety valve demonstrate that this part is subject to repetitive restoration every 50,000 flight hours (FH) or 12 years, but this airworthiness instruction is not yet reflected in the instructions for continuing airworthiness. Moreover, this safety valve, part of the CPCS, is not failure monitored.
>
> In order to maintain the required safety objectives, the CPCS safety valves must be replaced by a serviceable part no later than the above values.
>
> For the reasons describe above, this [EASA] AD requires repetitive replacement of CPCS safety valves.

Exceeding the service life limits of the CPCS safety valve, in the event of a failure, could result in excessive positive or negative differential pressure in the fuselage, and consequent incapacitation or injuries to airplane occupants.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0251-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (79 FR 27814, May 15, 2014) or on the determination of the cost to the public.

''Contacting the Manufacturer'' Paragraph in This AD

Since late 2006, we have included a standard paragraph titled ''Airworthy Product'' in all MCAI ADs in which the FAA develops an AD based on a foreign authority's AD.

The MCAI or referenced service information in an FAA AD often directs the owner/operator to contact the manufacturer for corrective actions, such as a repair. Briefly, the Airworthy Product paragraph allowed owners/operators to use corrective actions provided by the manufacturer if those actions were FAA-approved. In addition, the paragraph stated that any actions approved by the State of Design Authority (or its delegated agent) are considered to be FAA-approved.

In the NPRM (79 FR 11016, February 27, 2014), we proposed to prevent the use of repairs that were not specifically developed to correct the unsafe condition, by requiring that the repair approval provided by the State of Design Authority or its delegated agent specifically refer to this FAA AD. This change was 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 proposed to change the phrase ''its delegated agent'' to include a design approval holder (DAH) with State of Design Authority

design organization approval (DOA), as applicable, to refer to a DAH authorized to approve required repairs for the proposed AD.

No comments were provided to the NPRM (79 FR 11016, February 27, 2014) about these proposed changes. However, a comment was provided for an NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013). The commenter stated the following: ''The proposed wording, being specific to repairs, eliminates the interpretation that Airbus messages are acceptable for approving minor deviations (corrective actions) needed during accomplishment of an AD mandated Airbus service bulletin.''

This comment has made the FAA aware that some operators have misunderstood or misinterpreted the Airworthy Product paragraph to allow the owner/operator to use messages provided by the manufacturer as approval of deviations during the accomplishment of an AD-mandated action. The Airworthy Product paragraph does not approve messages or other information provided by the manufacturer for deviations to the requirements of the AD-mandated actions. The Airworthy Product paragraph only addresses the requirement to contact the manufacturer for corrective actions for the identified unsafe condition and does not cover deviations from other AD requirements. However, deviations to AD-required actions are addressed in 14 CFR 39.17, and anyone may request the approval for an alternative method of compliance to the AD-required actions using the procedures found in 14 CFR 39.19.

To address this misunderstanding and misinterpretation of the Airworthy Product paragraph, we have changed the paragraph and retitled it ''Contacting the Manufacturer.'' This paragraph now clarifies that for any requirement in this AD to obtain corrective actions from a manufacturer, the actions must be accomplished using a method approved by the FAA, the European Aviation Safety Agency (EASA), or Airbus's EASA Design Organization Approval (DOA).

The Contacting the Manufacturer paragraph also clarifies that, if approved by the DOA, the approval must include the DOA-authorized signature. The DOA signature indicates that the data and information contained in the document are EASA-approved, which is also FAA-approved. Messages and other information provided by the manufacturer that do not contain the DOA-authorized signature approval are not EASA-approved, unless EASA directly approves the manufacturer's message or other information.

This clarification does not remove flexibility previously afforded by the Airworthy Product paragraph. Consistent with long-standing FAA policy, such flexibility was never intended for required actions. This is also consistent with the recommendation of the Airworthiness Directive Implementation Aviation Rulemaking Committee to increase flexibility in complying with ADs by identifying those actions in manufacturers' service instructions that are ''Required for Compliance'' with ADs. We continue to work with manufacturers to implement this recommendation. But once we determine that an action is required, any deviation from the requirement must be approved as an alternative method of compliance.

Other commenters to the NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013) pointed out that in many cases the foreign manufacturer's service bulletin and the foreign authority's MCAI might have been issued some time before the FAA AD. Therefore, the DOA might have provided U.S. operators with an approved repair, developed with full awareness of the unsafe condition, before the FAA AD is issued. Under these circumstances, to comply with the FAA AD, the operator would be required to go back to the manufacturer's DOA and obtain a new approval document, adding time and expense to the compliance process with no safety benefit.

Based on these comments, we removed the requirement that the DAH-provided repair specifically refer to this AD. Before adopting such a requirement, the FAA will coordinate with affected DAHs and verify they are prepared to implement means to ensure that their repair approvals consider the unsafe condition addressed in this AD. Any such requirements will be adopted through the normal AD rulemaking process, including notice-and-comment procedures, when appropriate.

Conclusion

We reviewed the relevant data 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 (79 FR 27814, May 15, 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 27814, May 15, 2014).

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 77 airplanes of U.S. registry.

We also estimate that it takes about 25 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $9,784 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $916,993, or $11,909 per product, per replacement cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0251;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–16–22 Airbus: Amendment 39–17946. Docket No. FAA–2014–0251; Directorate Identifier 2013–NM–179–AD.

(a) Effective Date

This AD becomes effective September 25, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes; Model A340–211, –212, –213, –311, –312, and –313 airplanes; and Model A340–541 and –642 airplanes; certificated in any category; all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 21, Air Conditioning.

(e) Reason

This AD was prompted by a determination that the service life limits of the cabin pressure control system (CPCS) safety valves installed on the aft pressure bulkhead were being exceeded. We are issuing this AD to prevent exceeding the service life limits of the CPCS safety valve, which, in the event of a failure, could result in excessive positive or negative differential pressure in the fuselage, and consequent incapacitation or injuries to airplane occupants.

(f) Compliance

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

(g) Replacement of CPCS Safety Valves

(1) For airplanes on which the total number of flight hours accumulated on the CPCS safety valves are known: Replace the CPCS safety valve with a serviceable valve at the later of the times specified in paragraph (g)(1)(i) or (g)(1)(ii) of this AD. Replace the valve in accordance with the Accomplishment Instructions of the applicable service information identified in paragraph (g)(3)(i), (g)(3)(ii), or (g)(3)(iii) of this AD. Repeat the replacement at intervals not to exceed 50,000 flight hours or 12 years accumulated on the CPCS safety valve, whichever occurs first.

(i) Before the safety valve accumulates 50,000 total flight hours or 12 years since first installation or since the last restoration, as applicable, whichever occurs first.

(ii) Within 26 months after the effective date of this AD.

(2) For airplanes on which the total number of flight hours accumulated on the CPCS safety valve are unknown: Replace the CPCS safety valve with a serviceable valve within 26 months after the effective date of this AD, in accordance with the Accomplishment Instructions of the applicable service information identified in paragraph (g)(3)(i), (g)(3)(ii), or (g)(3)(iii) of this AD. Repeat the replacement at intervals not to exceed 50,000 flight hours or 12 years accumulated on the CPCS safety valve, whichever occurs first.

(3) Use the applicable service information identified in paragraph (g)(3)(i), (g)(3)(ii), or (g)(3)(iii) of this AD to accomplish the specified actions in paragraph (g) of this AD.

(i) Airbus Service Bulletin A330–21–3154, Revision 01, dated April 10, 2013 (for Model A330–200 Freighter, A330–200 and A330–300 series airplanes).

(ii) Airbus Service Bulletin A340–21–4150, Revision 01, dated April 10, 2013 (for Model A340–200 and A340–300 series airplanes).

(iii) Airbus Service Bulletin A340–21–5044, Revision 01, dated April 10, 2013 (for Model A340–500 and A340–600 series airplanes).

(h) Definition of Serviceable Valves

For the purposes of this AD, a serviceable CPCS safety valve is a safety valve which has not exceeded the following service life limits, as applicable: 12 years since its manufacturing date, or 50,000 total flight hours since first installation on an airplane, whichever occurs first; or 12 years since its last restoration, or 50,000 total flight hours since its last restoration, whichever occurs first.

(i) Optional Method of Compliance

Accomplishment of Task 21.31.00/09, Remove Safety Valve for Restoration, of Section C–21, Air Conditioning, of Section C, Systems and Power-plant Section, of the Airbus A330 Maintenance Review Board Report, Revision 14, dated June 2013; or Airbus A340 Maintenance Review Board Report, Revision 14, dated June 2013; as applicable; constitutes compliance with any replacement required by paragraph (g) of this AD.

(j) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (g)(1) and (g)(2) of this AD, if those actions were performed before the effective date of this AD using the service information identified in paragraphs (j)(1), (j)(2), and (j)(3) of this AD, which are not incorporated by reference in this AD.

(1) Airbus Service Bulletin A330–21–3154, dated November 17, 2011.

(2) Airbus Service Bulletin A340–21–4150, dated November 17, 2011.

(3) Airbus Service Bulletin A340–21–5044, dated November 17, 2011.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2013–0201, dated September 4, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0251-0002.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (k)(3) and (k)(4) of this AD.

(m) 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) Airbus Service Bulletin A330–21–3154, Revision 01, dated April 10, 2013.

(ii) Airbus Service Bulletin A340–21–4150, Revision 01, dated April 10, 2013.

(iii) Airbus Service Bulletin A340–21–5044, Revision 01, dated April 10, 2013.

(iv) Task 21.31.00/09, Remove Safety Valve for Restoration, of Section C–21, Air Conditioning, of Section C, Systems and Power-plant Section, of the Airbus A330 Maintenance Review Board Report, Revision 14, dated June 2013.

(v) Task 21.31.00/09, Remove Safety Valve for Restoration, of Section C–21, Air Conditioning, of Section C, Systems and Power-plant Section, Airbus A340 Maintenance Review Board Report, Revision 14, dated June 2013.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.*

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

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

Issued in Renton, Washington, on August 7, 2014.

Victor Wicklund,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–19555 Filed 8–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0034; Directorate Identifier 2013–SW–006–AD; Amendment 39–17948; AD 2014–16–24]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH (Previously Eurocopter Deutschland GbmH) (Airbus Helicopters) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2012–10–53 for Eurocopter Deutschland GmbH (ECD) (now Airbus Helicopters) Model EC135P1, EC135P2, EC135P2+, EC135T1, EC135T2, and EC135T2+ helicopters. AD 2012–10–53 required, before further flight and at specified intervals, checking and inspecting the upper and lower main rotor hub (MRH) shaft flanges for a crack, and inspecting the lower hub-shaft flange bolt attachment areas for a crack. Since we issued AD 2012–10–53, it has been determined that it is safe to increase the visual inspection intervals of the MRH shaft flanges from 10 hours time-in-service (TIS) to 50 hours TIS and remove the inspection of the lower MRH shaft flange bolt attachment areas. This new AD continues to require checking and inspecting the upper and lower MRH shaft flanges for a crack. These actions are intended to detect a crack on the MRH shaft flange, which if not corrected, could result in failure of the MRH and subsequent loss of control of the helicopter.

DATES: This AD is effective September 25, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 25, 2014.

ADDRESSES: For service information identified in this AD, contact Airbus Helicopters, Inc., 2701 N. Forum Drive, Grand Prairie, Texas 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.* You may view this referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

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–2014–0034; 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 European Aviation Safety Agency (EASA) AD, any incorporated-by-reference information, the economic evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is 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 FURTHER INFORMATION CONTACT: Gary Roach, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *gary.b.roach@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On May 18, 2012, we issued Emergency AD 2012–10–53, which superseded Emergency AD 2012–10–51. Emergency AD 2012–10–53 was published in the **Federal Register** as a Final rule; request for comments on November 20, 2012, at 77 FR 69558. AD 2012–10–53 required a repetitive pilot check of the lower MRH shaft flange for a crack, a repetitive inspection of the upper and lower MRH shaft flanges and bolt attachment areas for a crack, and replacing the MRH shaft if there is a crack. AD 2012–10–53 was prompted by three reported incidents of cracking on the lower hub-shaft flanges of EC135 model helicopters.

After we issued AD 2012–10–53, Eurocopter revised Alert Service Bulletin (ASB) No. EC135–62A–029, now at Revision 7, dated October 22, 2012, which contains the procedures for the repetitive pilot checks and inspections. The inspection interval for the visual inspection of the MRH shaft flanges was increased to 50 flight hours based on results from full scale component testing. The note regarding the preflight check states that the time between two preflight checks must not exceed 6 flight hours, and clarifies that one flight may comprise of multiple take-offs and landings and a flight starts when the helicopter takes off and ends when the helicopter is on the ground with the engines shut off. Eurocopter also removed the visual inspection of

the blade bolt attachment areas from the ASB.

EASA also revised its AD, now at EASA AD 2012–0085R5, dated October 30, 2012, to correct this unsafe condition. EASA advises that based on results of the further full scale component testing, it has been determined that the interval for the repetitive visual inspections of the upper and lower hub shaft flanges can be extended to 50 flight hours. EASA AD No. 2012–0085R5 also references ECD ASB No. EC135–62A–029, Revision 7, dated October 22, 2012, for related information. EASA considers AD 2012–0085R5 to be interim AD action and further AD action may follow.

On January 16, 2014, we issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2012–10–53. The NPRM published in the **Federal Register** on January 31, 2014 (79 FR 5325). The NPRM proposed to continue to require the repetitive visual pilot check and inspection of the upper and lower MRH shaft flanges, as well as the replacement requirements of AD 2012–10–53. An owner/operator (pilot) may perform the required visual check and must enter compliance with the applicable paragraph of the AD into the helicopter maintenance records in accordance with 14 CFR 43.9(a)(1) through (4) and 91.417(a)(2)(v). A pilot may perform this check because it involves only looking at the visible area of the MRH shaft flanges and can be performed equally well by a pilot or a mechanic. This check is an exception to our standard maintenance regulations. Further, the NPRM proposed to increase the repetitive visual inspection interval for MRH shafts with 400 hours or more TIS from 10 hours TIS to 50 hours TIS. Any alternative method of compliance (AMOC) previously approved in accordance with AD 2012–10–53 would continue to be considered approved as an AMOC for the corresponding requirements in this AD.

Since we issued the NPRM, Eurocopter Deutschland GmbH changed its name to Airbus Helicopters Deutschland GmbH. This AD reflects that change and updates the contact information to obtain service documentation.

Comments

We gave the public the opportunity to participate in developing this AD, but we did not receive any comments on the NPRM (79 FR 5325, January 31, 2014).

FAA's Determination

These helicopters have been approved by the aviation authority of Germany and are approved for operation in the United States. Pursuant to our bilateral agreement with Germany, EASA, its technical representative, has notified us of the unsafe condition described in the EASA ADs. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed except for the name change previously described and a minor editorial change to meet current publishing requirements. The reference to ''the applicability of this AD'' in paragraph (f)(3) of this AD has been changed to reference ''paragraph (a) of this AD.'' These changes are consistent with the intent of the proposals in the NPRM (79 FR 5325, January 31, 2014) and will not increase the economic burden on any operator.

Differences Between This AD and the EASA AD

EASA considers its AD action to be an interim action; we do not consider this AD to be an interim AD action because the requirements for the applicable part-numbered MRH shafts are not expected to change. The EASA AD requires you to report the findings and send the removed MRH to ECD (now Airbus Helicopters), while this AD does not. The EASA AD requires the initial visual check within 3 days, while this AD requires the initial visual check before further flight. The EASA AD does not specify affected MRH shaft part numbers; this AD does because the FAA anticipates Airbus Helicopters will produce new part-numbered MRH shafts without the same unsafe condition.

Related Service Information

We reviewed Eurocopter ASB No. EC135–62A–029, Revision 7, dated October 22, 2012, which describes procedures for preflight checking the visible area of the upper and lower MRH shaft flanges and performing a repetitive visual inspection of the upper and lower MRH shaft for cracks. EASA classified this ASB as mandatory and issued AD No. 2012–0085R5 to ensure the continued airworthiness of these helicopters.

Costs of Compliance

We estimate that this AD affects 244 helicopters of U.S. Registry. We estimate inspecting the MRH shaft flanges requires 2.5 work-hours at an average labor rate of $85 per work-hour, for a total cost per helicopter of $212 and a total cost to U.S. operators of $51,728 per inspection cycle. Replacing an MRH shaft requires about 8 work-hours and required parts cost $55,715, for a total cost per helicopter of $56,395.

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 to the extent that it justifies making a regulatory distinction, and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2012–10–53 (77 FR 69558, November 20, 2012), and adding the following new AD:

2014–16–24 Airbus Helicopters Deutschland GmbH (Previously Eurocopter Deutschland GmbH) Helicopters: Amendment 39–17948; Docket No. FAA–2014–0034; Directorate Identifier 2013–SW–006–AD.

(a) Applicability

This AD applies to Model EC135P1, EC135P2, EC135P2+, EC135T1, EC135T2, and EC135T2+ helicopters, with a main rotor hub (MRH) shaft, part number (P/N) L623M1006101, L623M1206101, L623M1006102, L623M1206102, L623M1006103, or L623M1206103 installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as a crack in the MRH shaft flange, which could result in failure of the MRH and subsequent loss of control of the helicopter.

(c) Affected ADs

This AD supersedes AD 2012–10–53, Amendment 39–17254 (77 FR 69558, November 20, 2012).

(d) Effective Date

This AD becomes effective September 25, 2014.

(e) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(f) Required Actions

(1) Before further flight, and thereafter at intervals not to exceed 6 hours time-in-service (TIS), check the MRH shaft lower flange and the visible area of the MRH shaft upper flange for a crack. Figures 1 and 2 to Paragraph (f)(1) of this AD are examples of cracks that have been discovered in the MRH shaft lower flange. The actions required by this paragraph may be performed by the owner/operator (pilot) holding at least a private pilot certificate, and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9 (a)(1) through (4) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

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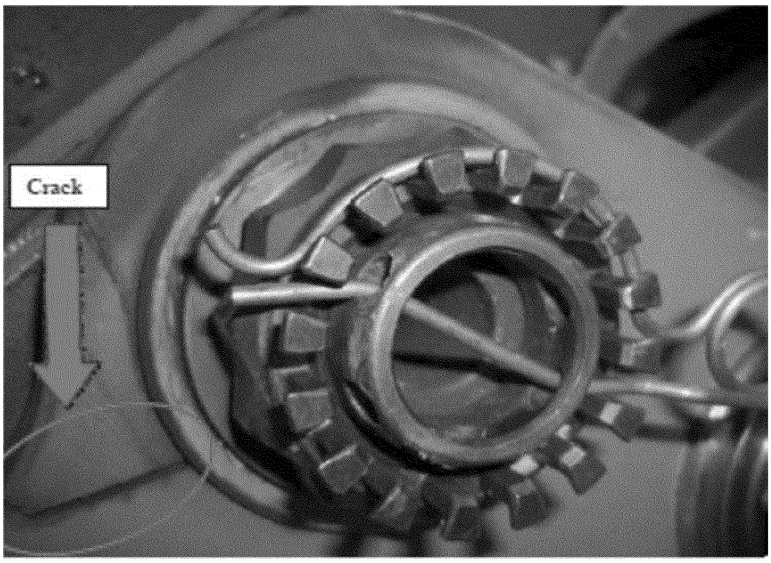

Figure 1 to Paragraph (f)(1)

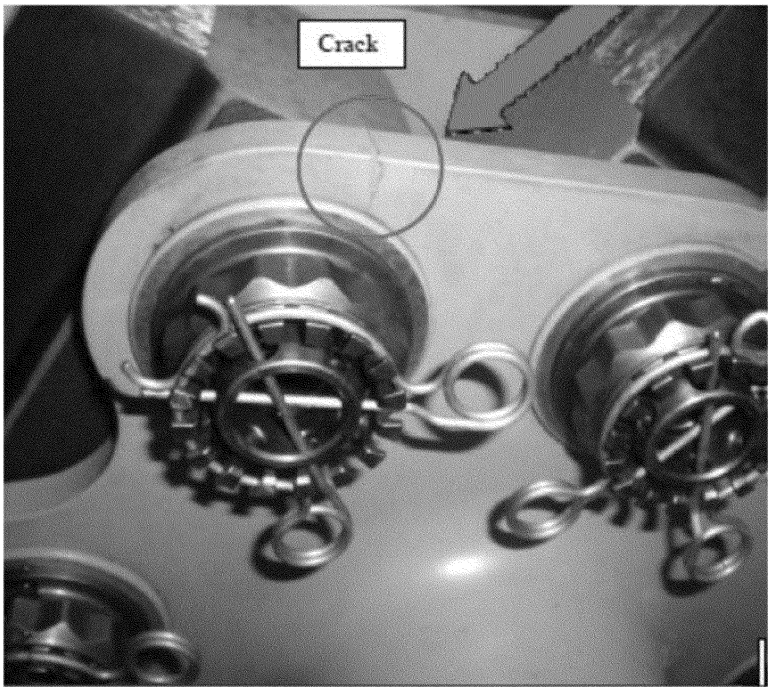

Figure 2 to Paragraph (f)(1)

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(2) For MRH shafts with 400 or more hours TIS, within 50 hours TIS, and thereafter at intervals not to exceed 50 hours TIS:

(i) Remove the rotor-hub cap.

(ii) Clean the upper and lower MRH shaft flange as depicted in Figure 2 of Eurocopter Alert Service Bulletin No. EC135–62A–029, Revision 7, dated October 22, 2012, and visually inspect for a crack.

(3) If there is a crack in the upper or lower MRH shaft flange, before further flight, replace that MRH shaft with an airworthy MRH shaft. Replacing the MRH shaft with an MRH shaft having a P/N listed in paragraph (a) of this AD does not constitute terminating action for the requirements of this AD.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Gary Roach,

Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *gary.b.roach@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(3) Any AMOC approved previously in accordance with AD No. 2012–10–53, Amendment 39–17254 (77 FR 69558, November 20, 2012), is approved as an AMOC for the corresponding requirements in paragraph (f) of this AD.

(h) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2012–0085R5, dated October 30, 2012. You may view the EASA AD on the Internet at *http://www.regulations.gov* in Docket No. FAA–2014–0034.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 6220, Main Rotor Head.

(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) Eurocopter Alert Service Bulletin No. EC135–62A–029, Revision 7, dated October 22, 2012, excluding Figure 1.

(ii) Reserved.

(3) For Eurocopter service information identified in this AD, contact Airbus Helicopters, Inc., 2701 N. Forum Drive, Grand Prairie, Texas 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.*

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. For information on the availability of this material at the FAA, call (817) 222–5110.

(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 Fort Worth, Texas, on August 8, 2014.

Lance T. Gant,

Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2014–19525 Filed 8–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0060; Directorate Identifier 2012–NM–194–AD; Amendment 39–17943; AD 2014–16–19]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directives (AD) 2006–21–08, AD 2007–14–01, AD 2008–25–02, AD 2010–04–09, AD 2011–01–02, and AD 2012–16–05, for certain Airbus Model A330 and A340 series airplanes. AD 2006–21–08, AD 2007–14–01, AD 2008–25–02, AD 2010–04–09, AD 2011–01–02, and AD 2012–16–05 required revising the maintenance program or inspection program to incorporate certain maintenance requirements and airworthiness limitations for fuel tank systems. This new AD requires a new maintenance or inspection program revision. This AD was prompted by a determination that more restrictive maintenance requirements and airworthiness limitations are necessary. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: This AD becomes effective September 25, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 25, 2014.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0060;* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@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.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede the ADs listed below:

- Airworthiness Directive AD 2006–21–08, Amendment 39–14793 (71 FR 61639, October 19, 2006);
- AD 2007–14–01, Amendment 39–15123 (72 FR 38006, July 12, 2007);
- AD 2008–25–02, Amendment 39–15760 (73 FR 75307, December 11, 2008);
- AD 2010–04–09, Amendment 39–16202 (75 FR 7940, February 23, 2010; corrected March 3, 2010 (75 FR 9515));
- AD 2011–01–02, Amendment 39–16555 (76 FR 432, January 5, 2011); and
- AD 2012–16–05, Amendment 39–17152 (77 FR 48425, August 14, 2012).

Airworthiness Directives AD 2006–21–08, AD 2007–14–01, AD 2008–25–02, AD 2010–04–09, AD 2011–01–02, and AD 2012–16–05 applied to certain Airbus Model A330 and A340 series airplanes. The NPRM published in the **Federal Register** on February 27, 2014 (79 FR 11019).

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2012–0168, dated August 31, 2012 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition certain Airbus Model A330 and A340 series airplanes. The MCAI states:

> Prompted by an accident [involving a fuel tank system explosion in flight] * * * the FAA published Special Federal Aviation Regulation (SFAR) 88 (66 FR 23086, May 7, 2001) and the Joint Aviation Authorities (JAA) published Interim Policy INT/POL/25/12. The design review conducted Airbus to develop Fuel Airworthiness Limitations (FAL) for Airbus on A330 and A340 aeroplanes in response to these regulations.
>
> The FAL* * * have been approved by the European Aviation Safety Agency (EASA)* * *ALS Part 5.
>
> Failure to comply with items as identified in Airbus A330 and A340 ALS Part 5 could result in a fuel tank explosion and consequent loss of the aeroplane.
>
> To address this condition, EASA issued:

EASA AD 2007–0023, dated January 25, 2007 [*http://ad.easa.europa.eu/ad/2007-0023*], which corresponds to FAA AD 2007–14–01, Amendment 39–15123 (72 FR 38006, July 12, 2007) to require compliance with FAL* * * (comprising maintenance/inspection tasks and Critical Design Configuration Control Limitations (CDCCL)) for A330 aeroplanes, and

EASA AD 2006–0205, dated July 11, 2006 [*http://ad.easa.europa.eu/ad/2006-0205*], which also corresponds to FAA AD 2007–14–01, Amendment 39–15123 (72 FR 38006, July 12, 2007) to require compliance with FAL * * * (comprising maintenance/inspection tasks and Critical Design Configuration Control Limitations (CDCCL)) for Airbus A340 aeroplanes.

All other EASA ADs * * * required accomplishment of aeroplane modifications related to Fuel Tank Safety items, the requirements and compliance times of which are now integrated into ALS Part 5.

For the reasons described above this [EASA] AD * * * requires the implementation of the new or more restrictive maintenance requirements and/or airworthiness limitations as specified in the revision 00 of Airbus A340 ALS Part 5.

The unsafe condition is the potential of ignition sources inside fuel tanks. Such ignition sources, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0060-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (79 FR 11019, February 27, 2014) or on the determination of the cost to the public.

Explanation of Change Made to This AD

We have revised paragraph (i) of this AD by removing a reference to a paragraph that was not needed.

''Contacting the Manufacturer'' Paragraph in This AD

Since late 2006, we have included a standard paragraph titled ''Airworthy Product'' in all MCAI ADs in which the FAA develops an AD based on a foreign authority's AD.

We have become aware that some operators have misunderstood or misinterpreted the Airworthy Product paragraph to allow the owner/operator to use messages provided by the manufacturer as approval of deviations during the accomplishment of an AD-mandated action. The Airworthy Product paragraph does not approve messages or other information provided by the manufacturer for deviations to the requirements of the AD-mandated actions. The Airworthy Product paragraph only addresses the requirement to contact the manufacturer for corrective actions for the identified unsafe condition and does not cover deviations from other AD requirements. However, deviations to AD-required actions are addressed in 14 CFR 39.17, and anyone may request the approval for an alternative method of compliance to the AD-required actions using the procedures found in 14 CFR 39.19.

To address this misunderstanding and misinterpretation of the Airworthy Product paragraph, we have changed the paragraph and retitled it ''Contacting the Manufacturer.'' This paragraph now clarifies that for any requirement in this AD to obtain corrective actions from a manufacturer, the actions must be accomplished using a method approved by the FAA, the European Aviation Safety Agency (EASA), or Airbus's EASA Design Organization Approval (DOA).

The Contacting the Manufacturer paragraph also clarifies that, if approved by the DOA, the approval must include the DOA-authorized signature. The DOA signature indicates that the data and information contained in the document are EASA-approved, which is also FAA-approved. Messages and other information provided by the manufacturer that do not contain the DOA-authorized signature approval are not EASA-approved, unless EASA directly approves the manufacturer's message or other information.

This clarification does not remove flexibility previously afforded by the Airworthy Product paragraph. Consistent with long-standing FAA policy, such flexibility was never intended for required actions. This is also consistent with the recommendation of the Airworthiness Directive Implementation Aviation Rulemaking Committee to increase flexibility in complying with ADs by identifying those actions in manufacturers' service instructions that are ''Required for Compliance'' with ADs. We continue to work with manufacturers to implement this recommendation. But once we determine that an action is required, any deviation from the requirement must be approved as an alternative method of compliance.

We also have decided not to include a generic reference to either the ''delegated agent'' or ''design approval holder (DAH) with State of Design Authority design organization approval,'' but instead we have provided the specific delegation approval granted by the State of Design Authority for the DAH throughout this AD.

Conclusion

We reviewed the relevant data 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 (79 FR 11019, February 27, 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 11019, February 27, 2014).

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 80 airplanes of U.S. registry.

We also estimate that it will take about 1 work-hour per product to comply with the new basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost $0 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $6,800, or $85 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

responsibilities among the various levels of government.

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0060;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directives (AD) AD 2006–21–08, Amendment 39–14793 (71 FR 61639, October 19, 2006); AD 2007–14–01, Amendment 39–15123 (72 FR 38006, July 12, 2007); AD 2008–25–02, Amendment 39–15760 (73 FR 75307, December 11, 2008); AD 2010–04–09, Amendment 39–16202 (75 FR 7940, February 23, 2010; corrected March 3, 2010 (75 FR 9515)); AD 2011–01–02, Amendment 39–16555 (76 FR 432, January 5, 2011); AD 2012–16–05, and Amendment 39–17152 (77 FR 48425, August 14, 2012); and

■ b. Adding the following new AD:

2014–16–19 Airbus: Amendment 39–17943. Docket No. FAA–2014–0060; Directorate Identifier 2012–NM–194–AD.

(a) Effective Date

This AD becomes effective September 25, 2014.

(b) Affected ADs

This AD replaces the ADs specified in paragraphs (b)(1) through (b)(6) of this AD.

(1) AD 2006–21–08, Amendment 39–14793 (71 FR 61639, October 19, 2006).

(2) AD 2007–14–01, Amendment 39–15123 (72 FR 38006, July 12, 2007).

(3) AD 2008–25–02, Amendment 39–15760 (73 FR 75307, December 11, 2008).

(4) AD 2010–04–09, Amendment 39–16202 (75 FR 7940, February 23, 2010; corrected March 3, 2010 (75 FR 9515)).

(5) AD 2011–01–02, Amendment 39–16555 (76 FR 432, January 5, 2011).

(6) AD 2012–16–05, Amendment 39–17152 (77 FR 48425, August 14, 2012).

(c) Applicability

This AD applies to Airbus Model A330–201, –202, –203, –223, –243, –223F, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes, certificated in any category, all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a determination that more restrictive maintenance requirements and airworthiness limitations are necessary. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

(f) Compliance

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

(g) Maintenance Program Revision and Airworthiness Limitations Compliance

(1) Within 3 months after the effective date of this AD, revise the maintenance or inspection program, as applicable, by incorporating Airbus A330 Airworthiness Limitations Section (ALS) Part 5—Fuel Airworthiness Limitations, dated November 16, 2011.

(2) Comply with all applicable instructions and airworthiness limitations included in Airbus A330 ALS Part 5—Fuel Airworthiness Limitations, dated November 16, 2011. The initial compliance times for the actions specified in Airbus A330 ALS Part 5—Fuel Airworthiness Limitations, dated November 16, 2011, are at the later of the times specified in paragraphs (g)(2)(i) and (g)(2)(ii) of this AD, except as required by paragraphs (h) and (i) of this AD.

(i) Within the applicable compliance times specified in Airbus A330 ALS Part 5—Fuel Airworthiness Limitations, dated November 16, 2011.

(ii) Within 3 months after accomplishing the actions required by paragraph (g)(1) of this AD.

(h) Exceptions to Compliance Times for Design Changes

(1) For type design changes specified in ''Sub-part 5–2 Changes to Type Design,'' of Airbus A330 ALS Part 5—Fuel Airworthiness Limitations, dated November 16, 2011, the compliance times are defined as ''Embodiment Limits,'' except as defined in paragraph (h)(2) of this AD.

(2) Where Airbus A330 ALS Part 5—Fuel Airworthiness Limitations, dated November 16, 2011, specifies a compliance time based on a calendar date for modifying the control circuit for the fuel pump of the center fuel tank (installing ground fault interrupters to the center tank fuel pump control circuit), the compliance date is September 18, 2016 (48 months after the effective date of AD 2012–16–05, Amendment 39–17152 (77 FR 48425, August 14, 2012)).

(i) No Alternative Actions, Intervals, or Critical Design Configuration Control Limitations (CDCCLs)

After accomplishing the revision required by paragraph (g) of this AD, no alternative actions (e.g., inspections), intervals, or CDCCLs may be used; except as specified in paragraph (h) of this AD; or unless the actions, intervals, or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(k) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) European

Aviation Safety Agency Airworthiness Directive 2012–0168, dated August 31, 2012; for related information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0060-0002.*

(l) 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) Airbus A330 Airworthiness Limitations Section (ALS) Part 5—Fuel Airworthiness Limitations, dated November 16, 2011. The cover page of this document is undated and identified as Revision 00.

(ii) Reserved.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.*

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

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

Issued in Renton, Washington, on August 4, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–19363 Filed 8–20–14; 8:45 am]

BILLING CODE 4910–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1253

[FDMS No. NARA–14–0001; Agency No. NARA–2014–049]

RIN 3095–AB82

Location of NARA Facilities and Hours of Use

AGENCY: National Archives and Records Administration (NARA).

ACTION: Direct final rule.

SUMMARY: The National Archives and Records Administration (NARA) is changing its list of facilities to include the new George W. Bush Presidential Library and to update addresses and contact numbers for records centers and archival research rooms outside of the Washington, DC area.

DATES: This rule is effective September 22, 2014, without further action, unless NARA receives adverse comments by September 10, 2014. If NARA receives an adverse comment, it will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: You may submit comments, identified by RIN 3095–AB82, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.*
- Email: *regulation_comments@nara.gov.*
- Mail: (For paper, disk, or CD–ROM submissions) Regulations Comments Desk, Strategy Division (SP); Suite 4100; National and Archives Records Administration; 8601 Adelphi Road; College Park, MD 20740–6001.
- Hand delivery or courier: Deliver comments to 8601 Adelphi Road; College Park, MD.

Instructions: All submissions received must include the agency name and Regulatory Information Number (RIN) for this rulemaking (RIN 3095–AB82). All comments received may be published without changes, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: For information or questions on this regulatory action, contact Carl Rauscher by telephone at 301–837–0320, by email at *regulation_comments@nara.gov,* or by mail to Carl Rauscher, Strategy Division (SP), Suite 4100; National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740–6001.

SUPPLEMENTARY INFORMATION: NARA is updating addresses and contact information for Presidential libraries, records centers, and archival research facilities outside of the Washington, DC area to reflect a newly-opened Presidential library, an agency-wide reorganization, and facility changes. The proposed changes reflect current contact information and include Web site addresses for additional information. These changes will affect all customers who do business with NARA.

This rule is effective upon publication for good cause as permitted by the Administrative Procedure Act (5 U.S.C. 553(d)(3)). NARA believes that a public comment period is unnecessary as this rule makes only minor changes to the list of current NARA's facilities and their contact information. This rule also does not have any Federalism implications.

This direct final rule is not a significant regulatory action for the purposes of E.O. 12866 and has been reviewed by the Office of Management and Budget (OMB). The rule is also not a major rule as defined in 5 U.S.C. Chapter 8, Congressional Review of Agency Rulemaking. As required by the Regulatory Flexibility Act, we certify that this rule will not have a significant impact on a substantial number of small entities because it makes updates only to the list of current NARA facilities and their contact information.

List of Subjects in 36 CFR Part 1253

Archives and records, Federal buildings and facilities, Presidential records.

For the reasons stated in the preamble, NARA amends Title 36 of the Code of Federal Regulations, part 1253, as follows:

PART 1253—LOCATION OF NARA FACILITIES AND HOURS OF USE

■ 1. The authority citation for part 1253 continues to read as follows:

Authority: 44 U.S.C. 2104(a).

§ 1253.3 [Amended]

■ 2. Revise § 1253.3 to read as follows:

§ 1253.3 Presidential Libraries.

Hours for the Presidential libraries' research rooms are posted at *http://www.archives.gov.* The Presidential library museums are open every day except Thanksgiving, December 25, and January 1. For more specific information about museum hours, please contact the libraries directly or visit the NARA Web site at *http://www.archives.gov.* Contact information for each library is as follows:

(a) Herbert Hoover Library is located at 210 Parkside Drive, West Branch, IA 52358 (mailing address: P.O. Box 488, West Branch, IA 52358). The phone number is 319–643–5301 and the fax number is 319–643–6045. The email address is *hoover.library@nara.gov.*

(b) Franklin D. Roosevelt Library is located at 4079 Albany Post Road, Hyde Park, NY 12538. The phone number is 800–FDR–VISIT or 845–486–7770 and the fax number is 845–486–1147. The email address is *roosevelt.library@nara.gov.*

(c) Harry S. Truman Library is located at 500 W. U.S. Hwy. 24, Independence, MO 64050. The phone number is 800–833–1225 or 816–268–8200 and the fax number is 816–268–8295. The email address is *truman.library@nara.gov.*

(d) Dwight D. Eisenhower Library is located at 200 SE. 4th Street, Abilene, KS 67410. The phone number is 877–RING–IKE or 785–263–6700 and the fax number is 785–263–6715. The email address is *eisenhower.library@nara.gov.*

(e) John Fitzgerald Kennedy Library is located at Columbia Point, Boston, MA 02125. The phone number is 866–JFK–1960 or 617–514–1600 and the fax number is 617–514–1652. The email address is *kennedy.library@nara.gov.*

(f) Lyndon Baines Johnson Library and Museum is located at 2313 Red River Street, Austin, TX 78705. The phone number is 512–721–0200 and the fax number is 512–721–0170. The email address is *johnson.library@nara.gov.*

(g) Richard Nixon Library, California is located at 18001 Yorba Linda Boulevard, Yorba Linda, CA 92886. The phone number is 714–983–9120 and the fax number is 714–983–9111. The email address is *nixon@nara.gov.* Richard Nixon Library, Maryland is located at 8601 Adelphi Road, College Park, MD 20740. The phone number is 301–837–3290 and the fax number is 301–837–3202. The email address is *nixon@nara.gov.*

(h) Gerald R. Ford Library is located at 1000 Beal Avenue, Ann Arbor, MI 48109. The phone number is 734–205–0555 and the fax number is 734–205–0571. The email address is *ford.library@nara.gov.* Gerald R. Ford Museum is located at 303 Pearl Street NW., Grand Rapids, MI 49504. The phone number is 616–254–0400 and the fax number is 616–254–0386. The email address is *ford.museum@nara.gov.*

(i) Jimmy Carter Library is located at 441 Freedom Parkway, Atlanta, GA 30307. The phone number is 404–865–7100 and the fax number is 404–865–7102. The email address is *carter.library@nara.gov.*

(j) Ronald Reagan Library is located at 40 Presidential Drive, Simi Valley, CA 93065. The phone number is 800–410–8354 or 805–577–4000 and the fax number is 805–577–4074. The email address is *reagan.library@nara.gov.*

(k) George Bush Library is located at 1000 George Bush Drive West, College Station, TX 77845. The phone number is 979–691–4000 and the fax number is 979–691–4050. The email address is *bush.library@nara.gov.*

(l) William J. Clinton Library is located at 1200 President Clinton Avenue, Little Rock, AR 72201. The phone number is 501–374–4242 and the fax number is 501–244–2883. The email address is *clinton.library@nara.gov.*

(m) George W. Bush Library is located at 2943 SMU Boulevard, Dallas, TX 75205. The phone number is 214–346–1650 and the fax number is 214–346–1699. The email address is *gwbush.library@nara.gov.*

§ 1253.4 [Removed]

■ 3. Remove § 1253.4.

§ 1253.5 [Removed]

■ 4. Remove § 1253.5.

§ 1253.6 [Redesignated as § 1253.4 and Amended]

■ 5. Redesignate § 1253.6 as § 1253.4 and revise newly designated § 1253.4 to read as follows:

§ 1253.4 Federal Records Centers.

Hours for federal records centers are posted at *http://www.archives.gov/frc/.* Contact information for each center is as follows:

(a) Atlanta Federal Records Center is located at 4712 Southpark Blvd., Ellenwood, GA 30294. The telephone number is 404–736–2820.

(b) Boston Federal Records Center is located at the Frederick C. Murphy Federal Center, 380 Trapelo Road, Waltham, MA 02452. The telephone number is 781–663–0130.

(c) Chicago Federal Records Center is located at 7358 Pulaski Road, Chicago, IL 60629. The telephone number is 773–948–9000.

(d) Dayton Federal Records Center is located at 3150 Springboro Road, Dayton, OH 45439. The telephone number is 937–425–0600.

(e) Denver Federal Records Center is located at 17101 Huron Street, Broomfield, CO 80023. The telephone number is 303–604–4760.

(f) Fort Worth Federal Records Center is located at 1400 John Burgess Drive, Fort Worth, Texas 76140. The telephone number is 817–551–2000.

(g) Kansas City Federal Records Center is located at 8600 NE Underground Drive, Pillar 300–G, Kansas City, MO 64161. The telephone number is 816–994–1700.

(h) Kingsridge Federal Records Center is located at 8801 Kingsridge Drive, Dayton, OH 45458. The telephone number is 937–425–0690.

(i) Lee's Summit Federal Records Center is located at 200 Space Center Drive, Lee's Summit, MO 64064. The telephone number is 816–268–8100.

(j) Lenexa Federal Records Center is located at 17501 W. 98th Street, Suite 3150, Lenexa, KS 66219. The telephone number is 913–825–7800.

(k) National Personnel Records Center—Military Personnel Records is located at 1 Archives Drive, St. Louis, MO 63138. The telephone number is 314–801–0582.

(l) National Personnel Records Center—Civilian Personnel Records is located at 1411 Boulder Boulevard, Valmeyer, IL 62295. The telephone number is 618–935–3005.

(m) Philadelphia Federal Records Center is located at 14700 Townsend Road, Philadelphia, PA 19154. The telephone number is 215–305–2000.

(n) Pittsfield Federal Records Center is located at 10 Conte Drive, Pittsfield, MA 01201. The telephone number is 413–236–3603.

(o) Riverside Federal Records Center is located at 23123 Cajalco Road, Perris, CA 92570. The telephone number is 951–956–2000.

(p) San Francisco Federal Records Center is located at Leo J. Ryan Building, 1000 Commodore Drive, San Bruno, CA 94066. The telephone number is 650–238–3500.

(q) Seattle Federal Records Center is located at 6125 Sand Point Way, NE., Seattle, WA 98115. The telephone number is 206–336–5115.

(r) Washington National Records Center is located at 4205 Suitland Road, Suitland, MD 20746. The phone number is 301–778–1600.

§ 1253.7 [Redesignated as § 1253.5 and Amended]

■ 6. Redesignate § 1253.7 as § 1253.5 and revise newly designated § 1253.5 to read as follows:

§ 1253.5 Archival Research Rooms.

Hours for archival research rooms outside of the Washington, DC area, including extended hours for microfilm research only, are posted at *http://www.archives.gov.* Contact information for each archival research facility is as follows:

(a) The National Archives at Atlanta is located at 5780 Jonesboro Road, Morrow, GA 30260. The telephone number is 770–968–2458.

(b) The National Archives at Boston is located in the Frederick C. Murphy Federal Center, 380 Trapelo Road, Waltham, MA 02452–6399. The telephone number is 781–663–0121.

(c) The National Archives at Chicago is located at 7358 South Pulaski Road, Chicago, IL 60629–5898. The telephone number is 773–948–9009.

(d) The National Archives at Denver is located at 17101 Huron Street, Broomfield, CO 80023–8909. The telephone number is 303–604–4749.

(e) The National Archives at Fort Worth is located at 1400 John Burgess Drive, Fort Worth, Texas 76140. The telephone number is 817–551–2000.

(f) The National Archives at Kansas City is located at 400 West Pershing Road, Kansas City, MO 64108. The telephone number is 816–268–8017.

(g) The National Archives at New York City is located in the Alexander Hamilton U.S. Customs House, 1 Bowling Green, New York, NY 10004–1415. The telephone number is 212–401–1623.

(h) The National Archives at Philadelphia is located at 14700

Townsend Road, Philadelphia, PA 19154. The telephone number is 215–305–2000.

(i) The National Archives at Riverside is located at 23123 Cajalco Road, Perris, CA 92570. The telephone number is 951–956–2000.

(j) The National Archives at San Francisco is located in the Leo J. Ryan Building, 1000 Commodore Drive, San Bruno, CA 94066–2350. The telephone number is 650–238–3478.

(k) The National Archives at Seattle is located at 6125 Sand Point Way, NE., Seattle, WA 98115–7999. The telephone number is 206–336–5141.

(l) The National Archives at St. Louis is located at 1 Archives Drive, St. Louis, MO 63138. The telephone number is 314–801–0850.

§ 1253.8 [Redesignated as § 1253.6]

■ 7. Redesignate § 1253.8 as § 1253.6.

§ 1253.9 [Redesignated as § 1253.7 and Amended]

■ 8. Redesignate § 1253.9 as § 1253.7 and in the newly designated paragraph § 1253.7(c), remove ''(with the exception of the Lyndon Baines Johnson Library which is only closed December 25).''

§ 1253.10 [Redesignated as § 1253.8 and Amended]

■ 9. Redesignate § 1253.10 as § 1253.8 and in the newly designated paragraph § 1253.8(a), remove ''§ 1253.10(c)'' and add in its place ''§ 1253.8(c),'' and remove ''§ 1253.10(d)'' and add in its place ''§ 1253.8(d).''

Dated: August 11, 2014.

David S. Ferriero,

Archivist of the United States.

[FR Doc. 2014–19533 Filed 8–20–14; 8:45 am]

BILLING CODE 7515–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2009–0790; FRL–9914–08–Region 8]

Approval and Promulgation of Air Quality Implementation Plans; Colorado; Revisions to Regulation Number 1; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; correction.

SUMMARY: This document contains a correction to the direct final rule, which published on May 10, 2010. Errors in the amendatory instruction are identified and corrected in this action.

DATES: This document is effective August 21, 2014.

FOR FURTHER INFORMATION CONTACT: Kathy Ayala, Air Program, Mailcode 8P–AR, Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado, 80202–1129, (303) 312–6142 or *ayala.kathy@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background

In a direct final rule published on May 10, 2010, 75 FR 25772, amendatory instruction number 2 for § 52.320(c)(114) was incorrectly stated. This document corrects this amendatory instruction and set-out text to read as follows:

Need for Correction

As published, the final regulations contain an error in the amendatory instruction and set-out text:

List of Subjects in 40 CFR Part 52

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

Accordingly, 40 CFR part 52 is corrected by making the following correcting amendment:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart G—Colorado

■ 2. Section 52.320 is amended by adding paragraph (c)(114) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(114) On August 1, 2007, the State of Colorado submitted revisions to Colorado Regulation Number 1 to be incorporated into the Colorado SIP. The submittal revised Section III.B.2. by adding ''and air curtain destructors subject to 40 CFR 60'' to the first sentence of Section III.B.2.

(i) Incorporation by reference.

(A) 5 CCR 1001–3, Code of Colorado Regulations, Regulation Number 1, Emission Control for Particulates, Smokes, Carbon Monoxide and Sulfur Oxides, PARTICULATE MATTER, Section III.B.2, ''Incinerators,'' effective on November 30, 2006, published in Colorado Register, Volume 29, Number 11.

* * * * *

Dated: August 5, 2014.

Shaun L. McGrath,

Regional Administrator, Region 8.

[FR Doc. 2014–19686 Filed 8–20–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2014–0317; FRL–9915–38–Region 9]

Approval and Promulgation of State Implementation Plans; Hawaii; Infrastructure Requirements for the 2008 8-Hour Ozone and the 2010 Nitrogen Dioxide National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving elements of a State Implementation Plan (SIP) revision submitted by the State of Hawaii on April 4, 2014, pursuant to the requirements of the Clean Air Act (CAA or the Act) for the 8-Hour Ozone and the 2010 Nitrogen Dioxide national ambient air quality standards (NAAQS). Section 110(a) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA.

DATES: This final rule is effective on September 22, 2014.

ADDRESSES: EPA has established a docket for this action, identified by Docket ID Number EPA–R09–OAR–2014–0317. The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed directly below.

FOR FURTHER INFORMATION CONTACT: Tom Kelly, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, (415) 972–3856, *kelly.thomasp@epa.gov.*

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

Table of Contents

I. Background
II. Final Action
III. Statutory and Executive Order Reviews

I. Background

On May 19, 2014 (79 FR 28659), EPA proposed to approve elements of the *Hawaii State Implementation Plan Revision for 8-Hour Ozone and the 2010 Nitrogen Dioxide National Ambient Air Quality Standards, Clean Air Act § 110(a)(1) and (2)* (''Hawaii Ozone and Nitrogen Dioxide Infrastructure SIP''), submitted by the State of Hawaii on April 4, 2014. In particular, we proposed to approve Hawaii Administrative Rules (HAR) section 11–60.1–31, as well as Hawaii Revised Statutes (HRS) sections 342B–4 and 342B–5 into the Hawaii SIP and to remove HRS sections 342–14, 342–18 and 342–19 from the SIP. We also proposed to approve the Hawaii Ozone and Nitrogen Dioxide Infrastructure SIP with respect to the following CAA requirements:

- Section 110(a)(2)(A): Emission limits and other control measures.
- Section 110(a)(2)(B): Ambient air quality monitoring/data system.
- Section 110(a)(2)(C) (in part): Program for enforcement of control measures and regulation of new stationary sources (minor NSR program).
- Section 110(a)(2)(E): Adequate resources and authority, conflict of interest, and oversight of local governments and regional agencies.
- Section 110(a)(2)(F): Stationary source monitoring and reporting.
- Section 110(a)(2)(G): Emergency episodes.
- Section 110(a)(2)(H): SIP revisions.
- Section 110(a)(2)(J) (in part): Public notification (sub-element 2).
- Section 110(a)(2)(K): Air quality modeling and submission of modeling data..
- Section 110(a)(2)(L): Permitting fees.
- Section 110(a)(2)(M): Consultation/participation by affected local entities.

We did not propose to take action on the Hawaii Ozone and Nitrogen Dioxide Infrastructure SIP with respect to the following sub-elements: 110(a)(2)(C) sub-element 3 (preconstruction PSD permitting of major sources); 110(a)(2)(D) all sub-elements; and 110(a)(2)(J) sub-elements 1 (consultation with identified officials on certain air agency actions) and 3 (PSD).

The rationale supporting EPA's action, including the scope of infrastructure SIPs in general, is explained in the proposed rule and the associated technical support document (TSD) and will not be restated here. The TSD is available online at *http://www.regulations.gov,* Docket ID number EPA–R09–OAR– 2014–0317. We did not received any public comments on our proposal.

II. Final Action

EPA is approving HAR section 11–60.1–31 and HRS sections 342B–4 and 342B–5 into the Hawaii SIP and removing HRS sections 342–14, 342–18 and 342–19 from the SIP.

EPA is also approving the Hawaii Ozone and Nitrogen Dioxide Infrastructure SIP with respect to the following requirements:

- Section 110(a)(2)(A): Emission limits and other control measures.
- Section 110(a)(2)(B): Ambient air quality monitoring/data system.
- Section 110(a)(2)(C) (in part): Program for enforcement of control measures and regulation of new stationary sources (minor NSR program).
- Section 110(a)(2)(E): Adequate resources and authority, conflict of interest, and oversight of local governments and regional agencies.
- Section 110(a)(2)(F): Stationary source monitoring and reporting.
- Section 110(a)(2)(G): Emergency episodes.
- Section 110(a)(2)(H): SIP revisions.
- Section 110(a)(2)(J) (in part): Public notification (sub-element 2).
- Section 110(a)(2)(K): Air quality modeling and submission of modeling data.
- Section 110(a)(2)(L): Permitting fees.
- Section 110(a)(2)(M): Consultation/participation by affected local entities.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations (42 U.S.C. 7410(k), 40 CFR 52.02(a)). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves certain state laws as meeting federal requirements; this action 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 application of those requirements would be inconsistent with the CAA; and,
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. section 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 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. section 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 *October 20, 2014.* Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 5, 2014.

Jared Blumenfeld,

Regional Administrator, Region IX.

Therefore, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart M—Hawaii

■ 2. In § 52.620:

■ a. In the table in paragraph (c), add an entry for ''11–60.1–31'' after the entry for ''11–60.1–20.''

■ b. In the table in paragraph (e), revise the table section heading entitled ''State of Hawaii Air Pollution Control Implementation Plans for Ozone, $PM_{2.5}$, and Lead.''

■ c. In the table in paragraph (e), add an entry for ''Hawaii State Implementation Plan Revision, National Ambient Air Quality Standards for 2008 Ozone and 2010 Nitrogen Dioxide, Clean Air Act Section 110(a)(1) & (2), excluding attachment 3, and appendices A, B, and C'' after the entry for ''Hawaii State Implementation Plan Revision for 2008 Lead National Ambient Air Quality Standard, Clean Air Act Section 110(a)(1) & (2), excluding attachment 6, and appendices A, B, C, F.''

■ d. In the table in paragraph (e), remove the table section heading entitled ''Hawaii Revised Statutes, Chapter 342, Hawaii Statute on Environmental Quality.''

■ e. In the table in paragraph (e), add entries for ''342B–4'' and ''342B–5'' after the entry for ''342B–3.''

The additions and revisions read as follows:

§ 52.620 Identification of plan.

* * * * *

(c) * * *

* * * * *

EPA-APPROVED STATE OF HAWAII REGULATIONS

State citation	Title/subject	Effective date	EPA approval date	Explanation
* * *	*	*	*	*
Department of Health, Title 11, Chapter 60.1, Air Pollution Control, Hawaii Administrative Rules				
* * *	*	*	*	*
11–60.1–31	Applicability	11/26/93	8/21/14 *[Insert* **Federal Register** *citation].*	Newly added to the Hawaii SIP. Submitted on April 4, 2014.
* * *	*	*	*	*

* * * * * (e) * * *

EPA APPROVED HAWAII NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
* * *	*	*	*	*
State of Hawaii Air Pollution Control Implementation Plans for Nitrogen Dioxide, Ozone, $PM_{2.5}$, and Lead				

EPA APPROVED HAWAII NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES—Continued

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
* *	*	*	*	* *
Hawaii State Implementation Plan Revision, National Ambient Air Quality Standards for 2008 Ozone and 2010 Nitrogen Dioxide, Clean Air Act Section 110(a)(1) & (2), excluding attachment 3, and appendices A, B, and C.	Statewide	4/4/14	8/21/14 *[Insert* **Federal Register** *citation].*	Approved SIP revision excludes attachment 3 (“Summary of Public Participation Proceedings”), appendix A (“Hawaii Revised Statutes, Title 19, Health, Chapter 342B, Air Pollution Control Sections 4 and 5”); appendix B (“Hawaii Administrative Rules, Title 11, Department of Health, Chapter 11–60.1, Air Pollution Control, Section 31;), appendix C (“Approvals & Public Participation Proceedings for HAR § 11–60.1–31: November 26, 1993 version”). The statutory provisions in appendix A are listed separately in the table under paragraph (e). The regulations in appendix B are listed separately in the table under paragraph (c). This action addresses the following CAA elements or portions thereof for the 2008 Ozone and 2010 Nitrogen Dioxide NAAQS: 110(a)(2)(A), (B), (C), (E), (F), (G), (H), (J), (K), (L), and (M).
* *	*	*	*	* *
Hawaii Revised Statutes, Division 1 (Government), Title 19 (Health), Chapter 342B (Air Pollution Control)				
* *	*	*	*	* *
342B–4	Other powers of department and director not affected.	4/4/14	8/21/14 *[Insert* **Federal Register** *citation].*	Most recently amended in Laws 1992, Act 240, pt of § 1. Included in appendix A to the Hawaii State Implementation Plan Revision, National Ambient Air Quality Standards for 2008 Ozone and 2010 Nitrogen Dioxide, Clean Air Act Section 110(a)(1) & (2).
342B–5	Effect of laws, ordinances, and rules.	4/4/14	8/21/14 *[Insert* **Federal Register** *citation].*	Most recently amended in Laws 1992, Act 240, pt of § 1. Included in appendix A to the Hawaii State Implementation Plan Revision, National Ambient Air Quality Standards for 2008 Ozone and 2010 Nitrogen Dioxide, Clean Air Act Section 110(a)(1) & (2).
* *	*	*	*	* *

[FR Doc. 2014–19688 Filed 8–20–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2012–0848; A–1–FRL–9913–00–Region 1]

Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Reasonably Available Control Technology for Nitrogen Oxides and Volatile Organic Compounds

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of New Hampshire. These revisions contain an updated regulation establishing reasonably available control technology (RACT) for sources of nitrogen oxides (NO_X), four updated source-specific orders for either volatile organic compound (VOC) or NO_X RACT, and a request to withdraw from the SIP a previously approved NO_X RACT order. The intended effect of this action is to approve the updated NO_X RACT regulation and updated VOC and NO_X RACT orders into the New Hampshire SIP, and to also approve New Hampshire's request to remove one NO_X RACT order from the SIP. This action is being taken in accordance with the Clean Air Act.

DATES: This direct final rule will be effective October 20, 2014, unless EPA receives adverse comments by September 22, 2014. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R01–OAR–2012–0848 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-Mail: arnold.anne@epa.gov.*
3. *Fax:* (617) 918–0047.
4. *Mail:* ''Docket Identification Number EPA–R01–OAR–2012–0848,'' Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912.
5. *Hand Delivery or Courier.* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R01–OAR–2012–0848. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov,* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

In addition, copies of the state submittal are also available for public inspection during normal business hours, by appointment at the State Air Agency; Air Resources Division, Department of Environmental Services, 6 Hazen Drive, P.O. Box 95, Concord, NH 03302–0095.

FOR FURTHER INFORMATION CONTACT: Bob McConnell, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912; phone 617–918–1046; fax: 617–918–0046; email: *mcconnell.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose
II. Description of Submittals
1. Part Env-A 1300, NO_X RACT
2. NO_X RACT for Gorham Paper and Tissue
3. NO_X RACT for Plymouth State College
4. VOC RACT for Concord Litho Group
5. VOC RACT for Sturm, Ruger & Company
6. VOC RACT for Textile Tapes Corporation
III. Final Action
IV. Statutory and Executive Order Reviews

I. Background and Purpose

On March 31, 2011, the State of New Hampshire submitted a formal request for a revision to its State Implementation Plan (SIP). The requested SIP revision consists of updates to and a renumbering of its existing regulation establishing reasonably available control technology (RACT) for sources of nitrogen oxides (NO_X). Additionally, New Hampshire submitted facility specific VOC or NO_X RACT orders for the following four facilities on the dates noted: Concord Litho Group, submitted December 31, 2013; Gorham Paper and Tissue, LLC, submitted October 19, 2012; Sturm, Ruger & Company, Inc., submitted February 4, 2013; and Textile Tapes Corporation, submitted November 16, 2012. Of final note, on December 16, 2013, New Hampshire submitted a

request to withdraw a previously approved NO_X RACT order for Plymouth State College from the SIP. For background on the Clean Air Act requirement for RACT and how it relates to New Hampshire, see 77 FR 66388, November 5, 2012.

II. Description of Submittals

1. Part Env-A 1300, NO_X RACT

EPA has approved previous versions of New Hampshire's NO_X RACT rule for both the 1-hour ozone and 1997 8-hour ozone standards into the New Hampshire SIP. Our initial approval of New Hampshire's NO_X RACT rule occurred on April 9, 1997 (see 62 FR 17092), and we approved an update to that rule in the **Federal Register** on November 5, 2012 (see 77 FR 66388). Today's action approves the minor updates described below, and also incorporates a renumbering of this regulation from Part Env-A 1211, as it was formerly identified in our two previous actions, to Chapter Env-A 1300. New Hampshire did not submit Env-A 1300, NO_X RACT, on March 31, 2011 to meet its RACT obligation under the national ambient air quality standard (NAAQS) for ozone revised by EPA in 2008.

In relation to the renumbering, we also note that on November 8, 2012 (see 77 FR 66921), we approved into the New Hampshire SIP the State's VOC RACT rule, a portion of which, at the time of our approval, was codified at Part Env-A 1211 (the same codification associated with our November 5, 2012 and earlier NO_X RACT approvals). Our approval of New Hampshire's VOC RACT regulation on November 8, 2012, therefore had the inadvertent effect of ''overwriting'' New Hampshire's NO_X RACT SIP regulations in the official compilation of the SIP maintained by EPA and the Office of the Federal Register. In accordance with our error correction authority under CAA section 110(k)(6), we are correcting the error caused by our inadvertent ''overwriting'' of New Hampshire's NO_X RACT regulations by revising the official compilation of the New Hampshire SIP to include Part Env-A 1300, NO_X RACT. Apart from the recodification and error correction described above, the substantive changes being made to New Hampshire's NO_X RACT rule are described below.

a. Revision Applicable to Emission Units Using Electronic Timing

New Hampshire's original regulation had required all internal combustion engines to undergo a manual timing adjustment, but experience gained through implementation of that requirement indicated that manual adjustments to units equipped with electronic timing were not feasible. Additionally, most new engines were equipped with electronic timing. Therefore, New Hampshire has removed the requirement for manual timing adjustments for units equipped with electronic timing, but retained the requirement for units that are not equipped with electronic timing.

b. Consolidation of Requirements for Testing, Recordkeeping, and Recording

New Hampshire's air pollution control regulations include Part Env-A 800, Testing and Monitoring Procedures, and Part Env-A 900, Owner or Operator Recordkeeping and Reporting Obligations. These rules have been approved into the New Hampshire SIP. See 77 FR 66388, November 5, 2012. New Hampshire's updated NO_X RACT regulation clarifies and updates the cross-referencing to these two rules.

c. Clarification of Use of Discrete Emission Reductions for Compliance

Part Env-A 1315.03(a) was added to clarify that sources subject to the state's NO_X RACT rule could comply by the purchase or generation of discrete emission reduction credits pursuant to Env-A 3100, Discrete Emission Reduction Trading Program. However, as noted within our approval of New Hampshire's RACT certification for the 1997 8-Hour ozone standard (77 FR 66388; November 5, 2012), Env-A 3100 has not been approved into the New Hampshire SIP. Therefore, any order issued by the New Hampshire DES that provides for compliance with NO_X RACT by use of Env-A 3100 will need to be approved into the New Hampshire SIP.

d. Clarification of Procedures for Issuance of a RACT Order

Part Env-A 1316, NO_X RACT Orders, was amended to clarify for the regulated community the steps that must be taken to request a NO_X RACT order containing a NO_X RACT limit that differs from those found within Env-A 1300. This section was also expanded to describe the actions that the New Hampshire DES will take upon receipt of such a request, including submitting the order to EPA as a SIP revision, and the maximum amount of time the state agency will take to complete these actions.

e. Change to Wording of Applicability Section

Part Env-A 1301.02, Applicability, was amended by inserting language in certain subsections to clarify for the regulated community the universe of sources subject to NO_X RACT. The language in question, ''and the permitting applicability levels specified in Env-A 607.01 are met,'' was added to Env-A 1301.02(b), for example. Env-A 1301.02(b) is the provision of New Hampshire's NO_X RACT regulations defining the universe of *utility boilers* subject to NO_X RACT. Env-A 607.01, referenced in Env-A 1301.02(b), is the section of New Hampshire's statewide permit regulations containing preconstruction (or temporary) permit requirements for new and modified sources.[1] In the ''Response to Comments'' document included in the March 31, 2011 SIP submittal, New Hampshire DES explained that the new language is intended only to indicate that the permitting applicability *levels* (i.e., source ''sizes'') contained in Env-607.01 must also be met before NO_X RACT applies. Furthermore, New Hampshire clarified that the new language is *not* intended to suggest that only new or modified emissions units are subject to NO_X RACT, i.e. that the added language is consistent with a requirement that existing sources are also subject to NO_X RACT under New Hampshire's regulation. EPA is therefore approving the added language because it is consistent with CAA requirements for NO_X RACT applicability.

f. Cross Reference to Env-A 2000

On June 30, 2014, New Hampshire submitted a letter requesting that a phrase within Env-A 1311.03(a)(5) not be incorporated into the SIP because it cross-references a New Hampshire state regulation, Env-A 2000, that is not a part of the SIP. Therefore, as requested, we are not approving the phrase ''or any opacity standard specified in Env-A 2000'' in subparagraph Env-A 1311.03(a)(5).

2. NO_X RACT for Gorham Paper and Tissue

On October 19, 2012, New Hampshire submitted NO_X RACT Order No. ARD–97–003 for the Gorham Paper and Tissue facility located in Gorham, New Hampshire, as a revision to the SIP. The premises was formerly owned and operated by the Crown Vantage

[1] Note that Env-A 607.01 is the section of New Hampshire's state regulations containing the permitting requirements in question, and that Env-A 607.01 is one subsection of Env-A 600, New Hampshire's Statewide Permit System regulations. The permit requirements now codified in Env-A 607.01 under state law were approved earlier by EPA into the New Hampshire SIP in a different section of Part Env-A 600 (Statewide Permit System).

Company, and New Hampshire DES originally issued RACT Order No. ARD–97–003 on September 24, 1997. New Hampshire DES submitted that original order to EPA as a SIP revision request, and we approved it into the New Hampshire SIP on May 13, 1998. See 63 FR 26455. On May 13, 2011, Gorham Paper and Tissue acquired ownership of the facility, and on January 20, 2012, submitted a NO_X RACT Analysis and RACT Order Application for a new tissue dryer machine. On October 19, 2012, New Hampshire DES issued an update of Order No. ARD–97–003 to the facility, and submitted the order to EPA as a SIP revision request on that same day.

The updated order establishes NO_X RACT for the tissue drying machine, requiring the installation and operation of ultra low NO_X burners, and an emission limitation of 0.035 lbs/mmBTU on a 24-hour calendar day average. The order also requires that initial and periodic stack tests be conducted. Additionally, the updated order adds a NO_X RACT emission limit of 0.25 lbs/mmBTU based on a 24-hour calendar day average for Boilers 1 and 2 at the facility when these boilers combust natural gas, and also provides testing requirements for these units. Lastly, a number of RACT requirements applicable to equipment that has been removed from the facility were deleted from the RACT order. EPA is approving this revised order because it is consistent with CAA requirements for NO_X RACT and with New Hampshire's NO_X RACT regulation.

3. NO_X RACT for Plymouth State College

On December 16, 2013, New Hampshire DES submitted a request to withdraw from the SIP a NO_X RACT order previously issued to Plymouth State College. Prior to 2013, Plymouth State routinely operated two electrical generators to provide power to the facility. During 2013, a decision was made to purchase all of the College's electricity from the grid, and to keep the two electrical generators as emergency backup generators. While functioning as a primary source of electricity for Plymouth State, operation of the generators was regulated by the requirements of NO_X RACT order ARD–95–002, issued to Plymouth Cogeneration Limited Partnership, which was approved into the New Hampshire SIP on April 9, 1997. See 62 FR 17087. As emergency generators, the operation of these units are now governed by New Hampshire regulation Env-A 1311, Emergency Generators, thus obviating the need for NO_X RACT order ARD–95–002. Accordingly, New Hampshire DES issued rescission of Final RACT Order No. ARD–95–002, dated December 16, 2013. EPA is therefore approving New Hampshire's request to withdraw the facility's NO_X RACT order from the SIP.

4. VOC RACT for Concord Litho Group

On December 31, 2013, New Hampshire DES submitted an updated VOC RACT order for the Concord Litho Group located in Concord, New Hampshire. The primary cause for updating the order was to remove specific set point temperatures for the two regenerative thermal oxidizers used by the facility to reduce VOC emissions. In place of these defined set points, New Hampshire has updated the order with a requirement that the temperature set points be determined by the most recently approved stack test that successfully demonstrated at least a 90% destruction efficiency. This update was made in light of the facility's periodic stack testing requirement, and the unique temperature set points that these tests produce. EPA is approving this revised order because it is consistent with CAA requirements for VOC RACT and with New Hampshire's Chapter Env-A 1200, VOC RACT regulation.

5. VOC RACT for Sturm, Ruger & Company

On February 4, 2013, New Hampshire DES submitted an updated VOC RACT order for the Sturm, Ruger & Company facility located in Newport, New Hampshire. Previously, EPA approved VOC RACT Order No. ARD–03–001 into the New Hampshire SIP within a final rule published in the **Federal Register** on November 15, 2012. See 77 FR 66388. The updated order contains VOC limits for two new processes at the facility, a stainless steel bluing line, and a camouflage image transfer and coating line.

The bluing line uses a rustproofing fluid with a low vapor pressure referred to as ''Pen Dip Super.'' This fluid has a low vapor pressure which is less than 1.0 millimeter (mm) of mercury, and New Hampshire DES indicates within the updated Order that use of this low vapor pressure fluid represents RACT for this process. Regarding this vapor pressure limit, as a point of reference the Ozone Transport Commission's model rule for solvent cleaning uses this threshold to distinguish between acceptable (less than 1.0 mm mercury), and unacceptable (1.0 mm mercury or higher) vapor pressures for cold cleaning solvents.

The camouflage image transfer and coating process uses a solvent based activator-release agent to prepare the camouflage image for transfer to a gun. Use of the activator-release agent produces approximately 0.05 lbs VOC per gun produced. This amount was significantly lower than other coatings available for this process, which ranged from 0.09 to 0.20 lbs VOC per gun produced, and therefore New Hampshire DES determined that use of the activator-release agent represented RACT for this process. EPA is approving this revised order because it is consistent with CAA requirements for VOC RACT and with New Hampshire's VOC RACT regulation.

6. VOC RACT for Textile Tapes Corporation

On November 16, 2012, New Hampshire DES submitted an amendment to a previously issued VOC RACT order for the Textile Tapes Corporation in Gonic, New Hampshire, as a SIP revision request. EPA had previously approved VOC RACT order ARD–96–001 for this facility into the New Hampshire SIP in a final rule published in the **Federal Register** on November 5, 2012. See 77 FR 66388. The updated order contains VOC destruction efficiency requirements, minimum operating temperature requirements, and testing requirements for a new recuperative thermal oxidizer that replaced an existing unit previously used at the facility. EPA is approving this revised order because it is consistent with CAA requirements for VOC RACT and with New Hampshire's VOC RACT regulation.

Summary

We have reviewed New Hampshire's revised NO_X RACT regulation, the four single-source RACT orders the State requested be approved into the SIP, and the NO_X RACT order the State requested be withdrawn from the SIP. We agree with the State's rationale for determining that these actions are consistent with CAA requirements and with New Hampshire's RACT regulations, and we are therefore approving each of New Hampshire's requested SIP revisions.

In summary, today's action approves minor clarifications and/or updates to New Hampshire's previously approved NO_X RACT regulations and to certain VOC and NO_X RACT orders. New Hampshire will need to address VOC and NO_X RACT requirements arising from the 2008 ozone NAAQS in a future SIP submittal to EPA. As explained earlier in this notice, today's action approving Env-A 1300, NO_X RACT, into

the New Hampshire SIP also corrects an inadvertent error, which we are correcting pursuant to CAA section 110(k)(6). As a final note, New Hampshire's re-numbered NO_X RACT rule is no less stringent than its previously adopted rule, thus satisfying the anti-backsliding requirements of section 110(*l*) of the CAA.

III. Final Action

EPA is approving and incorporating into the New Hampshire SIP Env-A 1300, NO_X RACT, as well as source-specific VOC and NO_X RACT orders for the following four facilities: Concord Litho Group; Gorham Paper and Tissue, LLC; Sturm, Ruger & Company, Inc.; and Textile Tapes Corporation. We are also approving New Hampshire's request to withdraw from the New Hampshire SIP a previously approved NO_X RACT order for Plymouth Cogeneration Limited Partnership.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective October 20, 2014 without further notice unless the Agency receives relevant adverse comments by September 22, 2014.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on October 20, 2014 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state 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 application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 October 20, 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 29, 2014.

H. Curtis Spalding,

Regional Administrator, EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart EE—New Hampshire

■ 2. Section 52.1520 is amended by:
■ a. In Table (c) adding a new state citation for Env-A 1300, NO_X RACT in numerical order; and
■ b. In Table (d), by:
■ i. Removing the row with existing state citation ''Source specific NO_X RACT order for Plymouth Cogeneration Ltd Partnership, Plymouth, NH,'' and
■ ii. Adding new state citations for Gorham Paper and Tissue, Concord Litho Group, Sturm, Ruger & Company, and Textile Tapes Corporation at the end of the table;

The amendments read as follows:

§ 52.1520 Identification of plan.

* * * * *

(c) *EPA approved regulations.*

EPA-APPROVED NEW HAMPSHIRE REGULATIONS

State citation	Title/ subject	State effective date	EPA approval date [1]	Explanations
*	*	*	*	*
Env-A 1300	NO_X RACT	10/31/2010	08/21/2014 [Insert **Federal Register** citation].	All of Section Env-A 1300 is approved, with the exception of the phrase ''or any opacity standard specified in Env-A 2000'' in subparagraph Env-A 1311.03(a)(5) which NH withdrew from its SIP submittal. State renumbered NO_X RACT from Env-A 1211 to Env-A 1300, and made several minor revisions to NO_X RACT requirements.
*	*	*	*	*

[1] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

(d) EPA-approved State Source specific requirements.

EPA-APPROVED NEW HAMPSHIRE SOURCE SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date [2]	Explanations
*	*	*	*	*
Gorham Paper and Tissue	Order No. ARD–97–003	10/19/2012	08/21/2014 [Insert **Federal Register** citation].	NO_X RACT order.
Concord Litho Group	Order No. ARD–07–003A	12/31/2013	08/21/2014 [Insert **Federal Register** citation].	VOC RACT order.
Sturm, Ruger & Company	Order No. ARD–03–001	3/21/2012	08/21/2014 [Insert **Federal Register** citation].	VOC RACT order.
Textile Tapes Corporation	Order No. ARD–96–001	11/16/2012	08/21/2014 [Insert **Federal Register** citation].	VOC RACT order.

[2] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

* * * * *

[FR Doc. 2014–19516 Filed 8–20–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 140106011–4338–02]

RIN 0648–XD441

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Trimester Closure for the Common Pool Fishery

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

ACTION: Temporary rule; area closure.

SUMMARY: This action closes the Georges Bank cod Trimester Total Allowable Catch Area for the remainder of Trimester 1, through August 31, 2014. Based on our projection, the common pool fishery has caught over 90 percent of its Georges Bank cod Trimester 1 total allowable catch triggering the regulatory requirement to close the area for the remainder of the trimester. This action is intended to prevent an overage of the common pool's annual quota of Georges Bank cod.

DATES: This action is effective August 18, 2014, through August 31, 2014.

FOR FURTHER INFORMATION CONTACT: Brett Alger, Fishery Management Specialist, 978–675–2153.

SUPPLEMENTARY INFORMATION: Federal regulations at § 648.82(n)(2)(ii) require

the Regional Administrator to close a common pool Trimester Total Allowable Catch (TAC) Area for a stock when 90 percent of the Trimester TAC is projected to be caught. In such cases, the Trimester TAC Area for a stock closes to all common pool vessels fishing with gear capable of catching that stock for the remainder of the trimester. The fishing year 2014 (May 1, 2014, through April 30, 2015) common pool sub-annual catch limit (sub-ACL) for Georges Bank (GB) cod is 31.0 mt and the Trimester 1 (May 1, 2014, through August 31, 2014) TAC is 8.3 mt. Based on the most recent data and information, which include vessel trip reports, dealer-reported landings, and vessel monitoring system information, we have determined that 118 percent of the Trimester 1 TAC was caught as of August 14, 2014. Because of the low trimester catch limit and the rate at which common pool vessel can harvest GB cod, it was not possible to initiate this action closer to the point at this 90 percent of the catch limit was harvested. Therefore, effective August 18, 2014, the GB cod Trimester TAC Area is closed for the remainder of Trimester 1, through August 31, 2014, to all common pool vessels fishing with trawl gear, sink gillnet gear, and longline/hook gear. Effective August 21, 2014, it is unlawful for common pool vessels to fish for, harvest, possess, or land regulated species or ocean pout in or from the GB cod Trimester TAC Area. The GB cod Trimester TAC Area includes statistical areas 521, 522, 525, and 561. The GB cod Trimester TAC Area will reopen to common pool vessels fishing with trawl, sink gillnet, and longline/hook gear at the beginning of Trimester 2, on September 1, 2014.

Any overages of a trimester TAC will be deducted from Trimester 3, and any overages of the common pool's sub-ACL at the end of the fishing year will be deducted from the common pool's sub-ACL the following fishing year. Any uncaught portion of the Trimester 1 and Trimester 2 TAC will be carried over into the next trimester. Any uncaught portion of the common pool's sub-ACL may not be carried over into the following fishing year. Weekly quota monitoring reports for the common pool fishery can be found on our Web site at: *http://www.nero.noaa.gov/ro/fso/MultiMonReports.htm.* We will continue to monitor common pool catch through vessel trip reports, dealer-reported landings, vessel monitoring system catch reports, and other available information and, if necessary, we will make additional adjustments to common pool management measures.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3) to waive prior notice and the opportunity for public comment and the 30-day delayed effectiveness period because it would be impracticable and contrary to the public interest.

The Trimester TAC Area closure is required by regulation in order to reduce the probability of the common pool fishery exceeding its sub-ACL of GB cod. Any overages of the common pool's sub-ACLs would undermine conservation objectives and trigger the implementation of accountability measures that would have negative economic impacts on common pool vessels. The data and information showing that GB cod had exceeded 90 percent of the Trimester 1 TAC for the stock only became available recently. The time necessary to provide for prior notice and comment, and a 30-day delay in effectiveness, would prevent NMFS from implementing the necessary Trimester TAC Area closure for GB cod in a timely manner, which could undermine management objectives of the Northeast Multispecies Fishery Management Plan, and cause negative economic impacts to the common pool fishery.

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

Dated: August 15, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–19830 Filed 8–18–14; 11:15 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 131021878–4158–02]

RIN 0648–XD447

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of Pacific cod from vessels using jig gear, catcher vessels greater than or equal to 60 feet (18.3 meters) length overall (LOA) using hook-and-line gear, and catcher vessels using trawl gear to catcher vessels less than 60 feet (18.3 meters) LOA using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area. This action is necessary to allow the 2014 total allowable catch of Pacific cod to be harvested.

DATES: Effective August 19, 2014, through 2400 hours, Alaska local time (A.l.t.), December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands (BSAI) according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2014 Pacific cod total allowable catch (TAC) specified for vessels using jig gear in the BSAI is 1,474 metric tons (mt) as established by the final 2014 and 2015 harvest specifications for groundfish in the BSAI (79 FR 12108, March 4, 2014) and one inseason adjustment (79 FR 6837, February 5, 2014).

The Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that jig vessels will not be able to harvest 1,373 mt of the remaining 2014 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(*1*). Therefore, in accordance with § 679.20(a)(7)(ii)(A), NMFS apportions 1,373 mt of Pacific cod to the annual amount specified for catcher vessels less than 60 feet LOA using hook-and-line or pot gear.

The 2014 Pacific cod TAC specified for catcher vessels greater than or equal to 60 feet LOA using hook-and-line gear in the BSAI is 452 mt as established by the final 2014 and 2015 harvest specifications for groundfish in the BSAI (79 FR 12108, March 4, 2014). The Regional Administrator has determined that catcher vessels greater than or equal to 60 feet LOA using hook-and-line gear will not be able to harvest 427 mt of the remaining 2014 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(*3*). Therefore, in accordance with § 679.20(a)(7)(iii)(A),

NMFS apportions 427 mt of Pacific cod to catcher vessels less than 60 feet LOA using hook-and-line or pot gear.

The 2014 Pacific cod TAC specified for catcher vessels using trawl gear in the BSAI is 50,107 mt as established by the final 2014 and 2015 harvest specifications for groundfish in the BSAI (79 FR 12108, March 4, 2014). The Regional Administrator has determined that catcher vessels using trawl gear will not be able to harvest 2,000 mt of the 2014 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(*9*). Therefore, in accordance with § 679.20(a)(7)(iii)(A), NMFS reallocates 2,000 mt of Pacific cod from catcher vessels using trawl gear to catcher vessels less than 60 feet LOA using hook-and-line or pot gear.

The harvest specifications for Pacific cod included in the final 2014 harvest specifications for groundfish in the BSAI (79 FR 12108, March 4, 2014) and inseason adjustment (79 FR 6837, February 5, 2014) are revised as follows: 101 mt for vessels using jig gear, 25 mt for catcher vessels greater than or equal to 60 feet (18.3 m) LOA using hook-and-line gear, 48,107 mt for catcher vessels using trawl gear, and 10,018 mt to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of Pacific cod specified from other sectors to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear. Since the fishery is currently open, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 15, 2014.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: August 18, 2014.

Alan D. Risenhoover,

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

[FR Doc. 2014–19840 Filed 8–18–14; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 79, No. 162
Thursday, August 21, 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 HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. FDA–2014–F–1184]

Zinpro Corp.; Filing of Food Additive Petition (Animal Use)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of petition.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Zinpro Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of zinc L-selenomethionine as a source of selenium in complete feed for broiler chickens.

DATES: Submit either electronic or written comments on the petitioner's request for categorical exclusion from preparing an environmental assessment or environmental impact statement by September 22, 2014.

ADDRESSES: Submit electronic comments to: *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Isabel W. Pocurull, Center for Veterinary Medicine (HFV–226), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–453–6853.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5) (21 U.S.C. 348(b)(5)), notice is given that a food additive petition (FAP 2285) has been filed by Zinpro Corp., 10400 Viking Dr., Suite 240, Eden Prairie, MN 55344. The petition proposes to amend Title 21 of the Code of Federal Regulations (CFR) in part 573 *Food Additives Permitted in Feed and Drinking Water of Animals* (21 CFR part 573) to provide for the safe use of zinc L-selenomethionine as a source of selenium in complete feed for broiler chickens.

The petitioner has requested a categorical exclusion from preparing an environmental assessment or environmental impact statement under 21 CFR 25.32(r). Interested persons may submit either electronic or written comments regarding this request for categorical exclusion to the Division of Dockets Management (see **DATES** and **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

Dated: August 15, 2014.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2014–19831 Filed 8–20–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

[Docket ID. OSHA 2014–0019]

RIN 1218–AC92

Arizona State Plan for Occupational Safety and Health

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Proposed rejection of State initiated plan change; reconsideration of final approval of State plan; and request for written comments.

SUMMARY: The Occupational Safety and Health Act requires state plans to provide safety standards ''at least as effective as'' those of Federal OSHA. The legislature of Arizona enacted a fall protection standard for residential roofing that provides fall protection at heights above 15 feet, while that of OSHA provides protection to workers at 6 feet. OSHA is proposing to take action to require Arizona to revise its standard to provide equivalent protection. OSHA is initiating two concurrent administrative proceedings which would officially reject Arizona's fall protection standard, and rescind the ''final approval'' status of the Arizona state plan in the construction industry, to allow OSHA to enforce Federal construction safety standards pending enactment by Arizona of an ''at least as effective'' fall protection standard. OSHA is soliciting written comments to ensure that all relevant information, views and data are available to the Assistant Secretary. If requested, a public hearing may be held on these issues.

DATES: Comments and requests for a hearing must be received by September 25, 2014.

ADDRESSES: Written comments: Submit comments, identified by docket number OSHA–2014–0019, or regulatory information number (RIN) 1218–AC92, by any of the following methods:

Electronically: Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions on-line for making electronic submissions; or

Fax: If your submission, including attachments, does not exceed 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648; or

U.S. mail, hand delivery, express mail, messenger or courier service: Submit your comments and attachments to the OSHA Docket Office, Docket Number OSHA–2014–0019, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). 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.–4:45 p.m., EDT.

Instructions for submitting comments: All submissions must include the docket number (Docket No. OSHA–2014–0019) or the RIN number (RIN 1218–AC92) for this rulemaking. Because of security-related procedures, submission by regular mail may result in significant delay. Please contact the OSHA Docket Office for information about security procedures for making submissions by hand delivery, express delivery and messenger or courier service.

All comments, including any personal information you provide, are placed in the public docket without change and will be made available online at *http://www.regulations.gov*. Therefore, OSHA cautions you about submitting personal information such as social security numbers and birthdates.

Docket: To read or download submissions in response to this **Federal Register** notice, go to docket number OSHA–2014–0019, at *http://www.regulations.gov*. All submissions are listed in the *http://www.regulations.gov* index, however some information (e.g., copyrighted material) is not publicly available to read or download through that Web page. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

Electronic copies of this **Federal Register** document are available at *http://www.regulations.gov*. This document as well as news releases and other relevant information, is available at OSHA's Web page at *http://www.osha.gov*. A copy of the documents referenced in this notice may also be obtained from the OSHA Docket Office, at the address above. Other information about the Arizona State Plan is posted on the state's Web site at *http://www.ica.state.az.us/adosh/adosh_main.aspx*.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Mr. Francis Meilinger, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov*.

For general and technical information: Mr. Douglas J. Kalinowski, Director, OSHA Directorate of Cooperative and State Programs, Room N–3700, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–2200; email: *kalinowski.doug@dol.gov*.

SUPPLEMENTARY INFORMATION:

Background

Arizona State Plan

Arizona administers an OSHA-approved State Plan to develop and enforce occupational safety and health standards for public and private sector employers, pursuant to the provisions of Section 18 of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (''the Act''). The Arizona State Plan received initial Federal OSHA plan approval on November 5, 1974 (39 FR 39037), and the Arizona Occupational Safety and Health Division (ADOSH) of the Industrial Commission of Arizona is designated as the state agency responsible for administering the State Plan. Pursuant to Section 18(e) of the Act, OSHA granted Arizona ''final approval'' effective June 20, 1985 (50 FR 25561). Final approval under Section 18(e) requires, among other things, a finding by the Assistant Secretary that the plan, in actual operation, provides worker protection ''at least as effective as'' that provided by Federal OSHA. A final approval determination results in the relinquishment of Federal concurrent enforcement authority in the state with respect to occupational safety and health issues covered by the plan (29 U.S.C. 667(e)).

OSHA's Residential Construction Fall Protection Standard

On November 25, 1986, OSHA proposed to revise the Federal construction fall protection standard. The rulemaking record, developed over a nine-year period, resulted in a more performance-oriented rule, issued on August 9, 1994 (29 CFR part 1926, subpart M, 59 FR 40672). In general, the rule requires that an employee exposed to a fall hazard at a height of six feet or more must be protected by conventional fall protection, meaning equipment that prevents or arrests the fall.

In response to feasibility issues about the rule raised by the residential construction industry, on December 8, 1995, OSHA issued interim fall protection procedures (STD 3.1) for residential construction employers that differ from those in the rule. OSHA Instruction STD 03–00–001 (a plain language rewrite and renumbering of STD 3.1) set out an interim compliance policy that permitted employers engaged in certain residential construction activities to use specified alternative procedures instead of conventional fall protection. These alternative procedures could be used without a prior showing of infeasibility or greater hazard and without a written, site-specific fall protection plan, requirements which apply to exceptions from the general requirement to use conventional fall protection in other construction sectors. OSHA never intended STD 03–00–001 to be a permanent policy; in issuing the Instruction, OSHA stated that the guidance provided therein would remain in effect until further notice or until completion of a new formal rulemaking effort addressing these concerns.

On July 14, 1999, OSHA published an Advanced Notice of Proposed Rulemaking (ANPR) (64 FR 38078) seeking comments and data on claims of infeasibility of fall protection requirements for certain construction activities, which marked the start of its evaluation of STD 03–00–001. In the ANPR, OSHA stated that the fall protection requirements of subpart M were already established as reasonably necessary and appropriate to protect workers and as technologically and economically feasible for employers. OSHA noted that since the promulgation of Subpart M, there had been advances in the types and capability of commercially available fall protection equipment and therefore, OSHA intended to rescind STD 03–00–001 unless persuasive evidence of infeasibility or significant safety hazard was presented. OSHA was willing to consider, and sought additional information on, specific concerns raised by employers engaged in certain residential construction activities.

After considering all comments submitted on the record, OSHA concluded that, overall, there was no persuasive evidence that most residential construction employers would be unable to find a safe and feasible means of protecting workers from falls in accord with Subpart M, 29 CFR 1926.501(b)(13). Therefore, on December 16, 2010, OSHA's Compliance Guidance for Residential Construction (STD 03–11–002) canceled OSHA's interim enforcement policy (STD 03–00–001) on fall protection for certain residential construction activities, and required employers engaged in residential construction to fully comply with 29 CFR 1926.501(b)(13). This new guidance informed State Plans that, in accordance with the Act, they must each have a compliance directive on fall protection in residential construction that, in combination with applicable State Plan standards, resulted in an enforcement program that is at least as effective as Federal OSHA's program (75 FR 80315, Dec. 22, 2010).

Arizona's Residential Construction Fall Protection Standard

On June 16, 2011, ADOSH adopted STD 03–11–002, but on June 17, 2011, the Industrial Commission of Arizona (ICA) immediately stayed the enforcement of this directive. Then on November 30, 2011 the ICA lifted the stay, effective January 1, 2012. On March 27, 2012, a new law, SB 1441, was signed into legislation, requiring conventional fall protection in residential construction whenever an employee is working at a height of fifteen or more feet or whenever a roof slope is steeper than 7:12, and creating

an exception if implementation of conventional fall protection is ''infeasible or creates a greater hazard.'' SB 1441 was codified as Arizona Revised Statute, Title 23, Ch. 2, Art 13 (A.R.S. 23–492), which sets forth fall protection requirements for residential construction work in the state. ADOSH then adopted the requirements of A.R.S. 23–492 as a state standard (Ariz. Admin. Code R20–5–601.01). On April 22, 2014, a new law, SB 1307, which makes certain revisions to A.R.S. 23–492, was signed into law. This revised version of the state statute makes some relatively minor changes to its fall protection requirements, does not alter the 15-foot height for conventional fall protection, and contains a conditional repeal provision.

The OSH Act requires State Plans to have standards that are at least as effective as Federal OSHA's standards (29 USC 667(c)(2)). In most instances, state standards are adopted by the designated state occupational safety and health agency, and are forwarded to OSHA as supplements to the State Plan (29 CFR 1953.4). In this instance, however, the legislature itself provided the standard (Ariz. Admin. Code R20–5–601.01). Accordingly, the State Plan supplement at issue in this **Federal Register** document is referred to as the ''state statute'' rather than ''standard'' or ''supplement,'' the terms used in OSHA's procedural regulations.

Steps Prior to This Document

Following an extensive review of the Arizona statute, on December 7, 2012, OSHA sent a letter to ADOSH stating that Federal OSHA has determined that the state statute is not at least as effective as the Federal equivalent in ensuring protection of residential construction workers. Since that time, OSHA has held numerous meetings and phone calls with Arizona stakeholders, ADOSH and the Industrial Commission of Arizona, which oversees ADOSH. The OSHA National Office in Washington, DC also spoke with staff from the Governor's Chief of Staff at the end of 2013 to express OSHA's concerns about the state statute.

Pursuant to 29 CFR 1953.6(e), OSHA sent Arizona a letter to show cause why a proceeding to reject the state statute and reconsider the State's Final Approval Status should not be commenced, on March 19, 2014. That letter gave the State 30 days to respond, a time subsequently extended to one week after the 2014 Arizona legislative session adjourned. On May 1, 2014, Arizona submitted its response. The response letter pointed to the passage of SB 1307, which is discussed below. The response letter also argued that because SB 1307 would be effective in late July 2014, the instant proceeding to reject A.R.S. 23–492 was moot. OSHA does not agree. The changes to A.R.S. 23–492 implemented by SB 1307 are limited, and OSHA has considered the substance of those changes in this notice. Moreover, the main provisions of A.R.S. 23–492 which are the basis for OSHA's proposed rejection of the state statute, including the 15-foot trigger height for conventional fall protection, remain in both the old and new versions of the state statute. Additional arguments in the response letter address the merits of whether Arizona's statute is at least as effective as the Federal fall protection standard. As explained below, OSHA does not believe that either the original or revised statute is at least as effective as the Federal standard, and thus OSHA continues to believe that there is cause to commence a proceeding to reject the state statute and reconsider the State's Final 18(e) Approval Status.

Comparison of OSHA and Arizona's Residential Construction Fall Protection Standards: How Arizona Is Not at Least as Effective as OSHA

Federal OSHA's standard for fall protection in residential construction (29 CFR 1926.501(b)(13)) generally requires conventional fall protection (fall arrest systems, safety nets, or guardrails) any time employees are working at heights of six feet or greater. Alternative fall protection measures may be used only if the employer can demonstrate that it is infeasible or creates a greater hazard to use the specified methods of conventional fall protection (29 CFR 1926.501(b)(13); *see also* STD 03–11–002). OSHA's standard creates a presumption that use of conventional fall protection is feasible and would not create a greater hazard, and puts the burden on employers to show otherwise (29 CFR 1926.501(b)(13)). In the limited circumstances in which conventional fall protection is infeasible or creates a greater hazard, Federal OSHA requires the employer to implement a written, site-specific fall protection plan that specifies the alternative measures that will be taken to eliminate or reduce the possibility of a fall (29 CFR 1926.501(b)(13); STD 03–11–002).

In contrast, Arizona's fall protection standard, under the statute passed in 2012, requires very limited, if any, fall protection for employees working between six and fifteen feet. With respect to work performed at heights of 15 feet or greater, Arizona's statute has a provision requiring the use of conventional fall protection unless the employer demonstrates that the use of such measures is infeasible or creates a greater hazard (A.R.S. 23–492.02(A)). Arizona's law does require a fall protection plan, but unlike Federal OSHA, which requires fall protection plans to be site-specific, Arizona allows employers to ''develop a single fall protection plan covering all construction operations'' for work performed at heights below fifteen feet (A.R.S. 23–492.07(A)(1)). Additionally, Arizona's statute contains multiple exceptions to the general requirement for conventional fall protection that will result in many circumstances in which conventional fall protection is not required (A.R.S. 23–492.02(B); 23–492.04(D)(1) and (D)(2); 23–492.04(G)(2); and (G)(3)). It also allows alternative fall protection to be used, i.e. slide guards and roof jack systems, in certain circumstances (A.R.S. 23–492.04(G)(1)(b); 23–492.05(B)).

Arizona's fall protection statute, newly revised in 2014, continues to require very limited, if any, fall protection for employees working between six and fifteen feet. At those heights, the statute continues to require only a fall protection plan, which can be a single plan for all sites. (SB 1307 Sec. 5(A)(1)). The newer version of the statute, like the older one, requires conventional fall protection at a height of 15 feet, and allows an exemption if that fall protection is infeasible or creates a greater hazard (Sec. 2(A)). Though the revised statute does eliminate some exemptions to and alternative methods of fall protection, it still allows other exemptions to conventional fall protection, SB 1307 Sec. 1(6) and Sec. 3(G)(2), and allows the use of other alternative methods, i.e. ''eave barriers'' and parapet walls (Secs. 3(G)(1), 4(A) and 4(B)).

After reviewing the provisions of both versions of the state statute, OSHA has concluded that the Arizona statute is not at least as effective as OSHA's standard. The most notable problematic differences being Arizona's 15 foot trigger height for using conventional fall protection as opposed to OSHA's six foot trigger height, the single fall protection plan for all worksites, and the exceptions to the requirement for conventional fall protection. On the basis of these concerns about the state statute, OSHA is initiating a proceeding to reject the state stature and reconsider the State Plan's Final Approval, and requests public comment.

Proposed Rejection of Arizona's State Statute and Reconsideration of Final Approval of the State Plan

This document proposes to reject the Arizona Revised Statute 23–492, including the revisions in SB 1307, and concurrently reconsider the Arizona State Plan's Final Approval pursuant to 29 CFR 1953.6(e) and 29 CFR 1902.47 et seq., respectively. OSHA is moving forward with both processes simultaneously with the understanding that reconsideration of final approval is contingent on successful rejection of the state statute.

Arizona must have an enforcement program for residential fall protection that is at least as effective as OSHA's. As explained in STD 03–11–002:

> States with OSHA-approved State Plans must have a compliance directive on fall protection in residential construction that, in combination with applicable State Plan standards, results in an enforcement program that is at least as effective as Federal OSHA's program. State plans must adopt the interpretation of ''residential construction'' and the citation policy described in paragraphs IX and X of this Instruction or an at least as effective alternative interpretation and policy.

SB 1307 contains a conditional repeal provision stating that if OSHA does reject the state statute, and publishes that decision in the **Federal Register** pursuant to 29 CFR 1902.23, then A.R.S. 23–492 is repealed by operation of law (Sec. 7). Arizona's response to OSHA's show cause letter argued that if the state statute is repealed, ADOSH would revert to enforcing 29 CFR part 1926, Subpart M, thus OSHA does not need to proceed on reconsideration of the State's final approval status. OSHA will proceed with reconsideration as a part of the proceeding to reject the Arizona statute. If rejection is successful, this would establish the basis for OSHA to reconsider the State's final approval status if the State does not implement and enforce 29 CFR part 1926, Subpart M and STD 03–11–002, or an at least as effective alternative, in an at least as effective manner. The lack of any such implementation or enforcement would leave a gap in the State's enforcement program, but if the State retained its final approval, neither the State nor Federal OSHA could cover that gap. Any such gap in the State Plan's enforcement program would serve as the basis for the Assistant Secretary's reconsideration of 18(e) final approval status. But as explained below, the Assistant Secretary may stagger the decisions on rejection and reconsideration, issuing a rejection decision first, and if it is successful, then delaying the decision on reconsideration to allow the state time to implement and begin enforcement of STD 03–11–002.

The Extent of OSHA's Coverage if Arizona's Final Approval Is Reconsidered

While the issue at hand is limited to fall protection in residential construction, it may not be possible or practical to limit Federal coverage this narrowly, and it would likely extend to all aspects of construction, including residential, throughout the state. First, limiting Federal coverage to fall protection is not efficient or effective because once an inspector is on a worksite, he or she is obligated to inspect all aspects of the site. For example, if a Federal inspection is initiated in response to a reported fall hazard, but electrical, chemical, or equipment hazards are observed, those hazards would need to be addressed immediately. It would be impractical to contact ADOSH and have two agencies devoting resources to conduct two inspections at the same site.

Second, limiting Federal coverage to residential construction may not be feasible or effective because it is not always possible, with simple visual observation of a site, to tell if a structure under construction is a residence or a business. It may be necessary to interview individuals at the site, investigate building permits, or find other information before that determination can be made. It would not be effective or efficient for an inspector to make these efforts, determine that a site is not residential, and then leave to conduct work elsewhere.

Third, it may be problematic for the regulated public to have Federal OSHA enforcing requirements in residential construction while the state enforces in the rest of the construction sector. The two agencies have different inspection procedures, penalty assessments, and appeals processes. Many individual contractors work on both residential and commercial construction projects, and it would be preferable to avoid oversight by multiple agencies, if possible.

Fourth, there also may be issues in reconciling the Federal definition of residential construction in STD 03–11–002, and the uncertainty of a definition of residential construction in Arizona. For this reason, it may be difficult to come to an agreement about which sites fall under residential construction and which are general construction.

Operational Status Agreement

OSHA regulations provide that in states with initially-approved plans, OSHA and the state may enter into an agreement describing the division of responsibilities between them (29 CFR 1954.3). If the Assistant Secretary were to make a final decision on reconsideration to revoke final approval for construction, Federal authority for discretionary concurrent enforcement would resume, and it may be useful for OSHA and ADOSH to develop an Operational Status Agreement (OSA) specifying the level of Federal and state enforcement. The OSA would also include a timetable for remedial action to make state operations ''as least as effective.'' Notice would be provided in the **Federal Register** of any such agreement.

Procedures for the Proceeding and Hearing

OSHA's regulation on rejection of a State Plan Change, 29 CFR 1953.6(e), refers to procedures in 29 CFR 1902.17 et seq. Then 29 CFR 1902.19, in turn, refers to the procedures in 5 U.S.C. 556–557. OSHA's regulations on reconsideration of State Plan status, 29 CFR 1902.47 et seq., refer to procedures in 29 CFR 1902.40 for a hearing. These two sets of procedures (5 U.S.C. 556–557 and 29 CFR 1902.40) are similar, and OSHA will adhere to the procedural requirements in both sets of procedures. OSHA sent Arizona a letter to show cause why a proceeding to reject the State statute and reconsider the state's Final Approval Status should not be commenced, per 29 CFR 1953.6(e). This notice sets forth a 35-day comment period, pursuant to 29 CFR 1902.49, to provide interested parties an opportunity to provide in writing, data, views and arguments on the proposed rejection of the Arizona statute and proposal to reconsider final approval. Relevant materials, including all public comments, relevant Federal monitoring reports, and other pertinent documentation will be publically available in OSHA's Docket Office and on *www.regulations.gov,* as described above. At the close of the public comment period, OSHA will review all comments submitted.

A hearing would be presided over by an Administrative Law Judge (ALJ), and the pre-hearing procedure may include opportunities for subpoenas, depositions, and settlement conferences, within the discretion of presiding ALJ (5 U.S.C. 556(c)). The ALJ may entertain motions and may dispose of procedural requests, objections, and comparable matters (29 CFR 1902.40(c)(2)). Under the rules of the Department of Labor's Office of Administrative Law Judges, the ALJ also has discretion on the rules for the proceeding (29 CFR 18.1(b)). The

hearing itself would include the presentation of testimony, cross-examination of witnesses, and the introduction of exhibits, by both parties (5 U.S.C. 556(d)). A hearing transcript would be created, and ultimately, OSHA would have the burden of proof (5 U.S.C. 556(d)). At the conclusion of any hearing, participants in the hearing would have the opportunity to submit proposed findings, along with supporting reasons and any additional data, views, or argument, within a period of thirty days (29 CFR 1902.19 and 1902.40(c)(6)).

Assuming Arizona does not waive the tentative decision, the Assistant Secretary will issue a tentative decision, on the basis of the whole record, either approving or disapproving the state's statute (29 CFR 1902.21). This tentative decision will include a statement of the findings and conclusions that form the basis of this decision and it will be published in the **Federal Register** (29 CFR 1902.21). Interested persons participating in the hearing would then have the opportunity to file exceptions, and objections to those exceptions. Any exceptions must be filed within thirty days of the tentative decision, and the objections within a period of time set forth in the tentative decision (29 CFR 1902.22). Subsequently, the Assistant Secretary will issue a final decision ruling on each exception and objection and publish such decision in the **Federal Register** (29 CFR 1902.22–23). This publication of the final decision in the **Federal Register** may also include the Assistant Secretary's decision on the continuation or revocation of the Arizona State Plan's affirmative 18(e) determination, per 29 CFR 1902.52–53, or the two decisions may be issued on a staggered basis. If the Assistant Secretary's decision is to revoke the affirmative 18(e) determination, the **Federal Register** notice containing that decision will also reflect the Assistant Secretary's determination that concurrent Federal enforcement and standards authority will be reinstated within Arizona for a reasonable time until the Assistant Secretary has either withdrawn approval, or partial approval, of the plan pursuant to 29 CFR 1955, or has determined that Arizona has once again met criteria for final approval under section 18(e), (29 CFR 1902.52).

Pursuant to the regulations cited above, modifying the Arizona State Plan's status from final to initial approval would give OSHA concurrent enforcement authority in Arizona, including independent Federal or joint state and Federal inspections resulting in issuance of appropriate Federal citations. However, modifying Arizona's final approval status would not immediately affect Arizona's basic plan approval and would not eliminate Arizona's legal authority to enforce state occupational safety and health standards. Pending a final decision in the proceeding instituted today, OSHA will continue to exercise Federal authority over safety and health issues excluded from the scope of coverage of the State Plan; monitoring inspections including accompanied visits; and other Federal authority not affected by the June 20, 1985 final approval decision.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210 authorized the preparation of this notice. OSHA is issuing this notice under the authority specified by Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667), Secretary of Labor's Order No. 1–2012 (77 FR 3912), and 29 CFR parts 1902, and 1953.

Signed at Washington, DC, on August 13, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–19781 Filed 8–20–14; 8:45 am]

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DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Parts 2520 and 2550

RIN 1210–AB59

Request for Information Regarding Standards for Brokerage Windows in Participant-Directed Individual Account Plans

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Request for information.

SUMMARY: The Employee Benefits Security Administration of the U.S. Department of Labor (the Department) is publishing this Notice as part of its review of the use of brokerage windows (including self-directed brokerage accounts or similar arrangements) in participant-directed individual account retirement plans covered by the Employee Retirement Income Security Act of 1974 (ERISA). Some plans offer participants access to brokerage windows in addition to, or in place of, specific investment options selected by the plans' fiduciaries. Through these arrangements, plan participants may be able to choose among the full range of investment options available in the investment marketplace. The Request for Information contained in this Notice will assist the Department in determining whether, and to what extent, regulatory standards or other guidance concerning the use of brokerage windows by plans are necessary to protect participants' retirement savings. It also will assist the Department in preparing any analyses that it may need to perform pursuant to Executive Order 12866, the Paperwork Reduction Act, and the Regulatory Flexibility Act.

DATES: Comments must be submitted on or before November 19, 2014.

ADDRESSES: You may submit written comments to any of the addresses specified below.

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Email: e-ORI@dol.gov*. Include RIN 1210–AB59 (Brokerage Windows RFI) in the subject line of the message.
- *Mail:* Office of Regulations and Interpretations, Employee Benefits Security Administration, Room N–5655, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, Attention: ''Brokerage Windows RFI.''

All submissions received must include the agency name and Regulation Identifier Number (RIN) for this rulemaking. Comments received will be posted without change to *http://www.regulations.gov* and *http://www.dol.gov/ebsa,* and made available for public inspection at the Public Disclosure Room, N–1513, Employee Benefits Security Administration, 200 Constitution Avenue NW., Washington, DC 20210, including any personal information provided. Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. Comments posted on the Internet can be retrieved by most Internet search engines. Comments may be submitted anonymously. Persons submitting comments electronically are encouraged not to submit paper copies. All comments will be made available to the public.

FOR FURTHER INFORMATION CONTACT: Kristen Zarenko, Office of Regulations and Interpretations, Employee Benefits Security Administration, (202) 693–8500. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

A. Background

Retirement plans that allow participants to choose investments for their individual accounts typically offer a limited set of specific investment options, which are selected and monitored by a plan fiduciary. Some plans also offer brokerage windows, which enable participants to select investment options beyond those specifically designated by the plan fiduciary. In some cases, the brokerage window may be offered in place of any designated investment options. The use of brokerage windows and similar arrangements by participant-directed individual account retirement plans (such as 401(k) plans) raises important issues concerning ERISA's reporting and disclosure requirements, as well as ERISA's fiduciary standards.

The Department addressed disclosure requirements for brokerage windows in a regulation requiring plan administrators to disclose certain plan and investment-related information to participants and beneficiaries in participant-directed individual account plans (the ''participant-level disclosure regulation'').[1] This regulation was intended to ensure that all participants and beneficiaries in such plans have the information they need to make informed decisions about the management of their individual accounts and the investment of their retirement savings. To that end, the regulation requires that, at least annually, participants and beneficiaries are furnished a comparative chart (or similar format) that contains information about the plan's ''designated investment alternatives.'' Plan administrators must, for example, furnish fee, historical performance, and comparative benchmark information for each designated investment alternative.

The regulation expressly provides that brokerage windows are not ''designated investment alternatives.'' [2] As a result, plan administrators are not required to disclose the detailed performance, fee, and other investment-related information required with respect to ''designated investment alternatives.'' Instead, plan administrators must provide ''a description of any 'brokerage windows,' 'self-directed brokerage accounts,' or similar plan arrangements that enable participants and beneficiaries to select investments beyond those designated by the plan.'' [3] In addition, the plan administrator must provide an explanation of any fees and expenses that may be charged against an individual account, on an individual, rather than on a plan-wide, basis, in connection with the arrangement. Finally, participants must be furnished a statement of the dollar amount of the fees and expenses charged to their accounts in connection with the arrangement during the previous quarter.[4]

Following publication of the participant-level disclosure regulation, plan sponsors and administrators raised a number of questions about the regulation, including how it applied to brokerage windows. These questions concerned both the required disclosures for brokerage windows as well as other fiduciary obligations that may arise when a plan offers a brokerage window. In response, the Department provided a series of ''frequently asked questions'' about the participant-level disclosure regulation. These questions and answers were published in Field Assistance Bulletin 2012–02R (FAB).[5] FAB Question 13 describes the information about brokerage windows that must be furnished to participants and beneficiaries in order to satisfy section (c)(1)(i)(F) of the regulation, which requires a ''description'' of the brokerage window. The FAB lists specific information requirements, including instructions for participants on how to use the plan's brokerage window, any restrictions on trading within the brokerage window, and fees and expenses that may be charged in connection with using the brokerage window (*e.g.,* annual fees for using the brokerage window feature, brokerage or other commissions for trades within the brokerage window).

FAB Question 39 [6] clarifies that a brokerage window is not *itself* a ''designated investment alternative'' under a plan. The Department also explains in Question 39 that a plan fiduciary's failure to designate investment alternatives, for example, by offering no menu of core investment options other than a brokerage window to avoid the regulation's investment-related disclosure requirements, may raise questions under ERISA's section 404 general statutory duties of prudence and loyalty. The Department issued this cautionary statement based, in part, on its observation that brokerage window features were being marketed by some to plan fiduciaries as a device to avoid making participant investment disclosures required under the regulation.

The Department is aware that plan fiduciaries and service providers continue to have questions about their duties under ERISA's general fiduciary standards apart from the specific requirements of the participant-level disclosure regulation. The Department is committed to engage in discussions with interested parties to help determine how best to assure compliance with these duties in a practical and cost-effective manner. This includes considering whether amendment of relevant regulatory provisions or interpretive guidance may be appropriate and necessary to ensure that participants and beneficiaries with access to brokerage windows are adequately protected.

Since issuance of the FAB, the Department has reviewed literature, articles and other commentary available on the use of brokerage windows in 401(k) plans. The Request for Information contained in this Notice (the RFI) is the Department's next step in increasing its understanding of this topic.

Some articles make the case that brokerage windows can be highly attractive and suitable plan features for sophisticated investors. These individuals assert that participants with a more advanced understanding of the investment marketplace, including the various costs and risks associated with investing in different types and classes of securities, may benefit from brokerage windows and the ability to create a better customized, more diverse portfolio. Brokerage windows may, for example, provide access to a specialized asset class or classes not available through the plan's core designated investment alternatives. Sophisticated investors may be less likely to be

[1] 75 FR 64910 (Oct. 20, 2010), codified at 29 CFR 2550.404a–5, and including conforming changes to the Department's ''404(c) regulation'' relating to plans that allow participants to direct the investment of their individual accounts, at 29 CFR 2550.404c–1.

[2] The regulation defines a ''designated investment alternative'' to mean: ''[A]ny investment alternative designated by the plan into which participants and beneficiaries may direct the investment of assets held in, or contributed to, their individual accounts. The term ''designated investment alternative'' *shall not include* 'brokerage windows,' 'self-directed brokerage accounts,' or similar plan arrangements that enable participants and beneficiaries to select investments beyond those designated by the plan.'' 29 CFR 2550.404a–5(h)(4) (emphasis added).

[3] 29 CFR 2550.404a–5(c)(1)(i)(F).

[4] 29 CFR 2550.404a–5(c)(3)(ii)(A).

[5] *http://www.dol.gov/ebsa/regs/fab2012-2R.html.*

[6] The original version of the FAB, which was rescinded and replaced by FAB 2012–02R, included Question 30, which some viewed as raising the possibility that plan fiduciaries could be responsible under ERISA for the underlying investments into which participants invest through a brokerage window. Further, some plan sponsors and service providers stated that the Department should not have issued Question 30 without prior notice and opportunity for public comment. Although the Department disagreed, it withdrew the original FAB. The revised FAB replaced Question 30 with Question 39, which is described in this Notice.

overwhelmed by a large number of investment options and may benefit from the flexibility that brokerage windows offer.

Some articles make the case that brokerage windows actually benefit rank-and-file participants by indirectly limiting the field. These individuals assert that many plans over time have increased the number of designated investment alternatives they offer in response to demands from company owner-employees, senior executives, and other potentially sophisticated employee-investors for access to more diverse investment opportunities. This results in some plans having a very large number of designated investment alternatives, which may confuse less knowledgeable participants. Making a brokerage window available to the more demanding employees enables plans to offer a more manageable number of designated investment alternatives to rank and file employees who, according to those proponents of brokerage windows, have little or no interest in investment opportunities beyond a basic set of diversified options.

Other articles, however, counter that brokerage windows may present undue risks for many retirement plan participants, because plan fiduciaries do not engage in a deliberative process to affirmatively review and select each of the investment options available through brokerage windows. Thus, they say in the absence of a deliberative review and selection process by an ERISA fiduciary, participants may not have adequate or any protections against potentially costly or unsuitable investments made through the brokerage window. Opponents maintain, for example, that the same or similar investments often cost more when selected through a brokerage window as opposed to when they are designated by the plan. Brokerage window opponents maintain that plans have no bona fide method to restrict brokerage window access only to sophisticated participants, and that the use of dollar thresholds or gateways, for example, may discriminate in favor of highly compensated employees. Opponents further maintain that although it is permissible to do so, brokerage window operators rarely limit the investments they make available. Opponents also allege that in-plan investments often subsidize the administrative costs of participants who opt to use the brokerage window.

B. Request for Information

The purpose of this RFI generally is to increase the Department's understanding of the prevalence and role of brokerage windows in participant-directed individual account plans covered by ERISA. In particular, the RFI will focus on why, under what circumstances, and how often these brokerage windows are offered and used in ERISA plans, and the legal and policy issues that relate to such usage. The Department wants to make sure that participants are not exposed to undue risks from brokerage windows and that plan fiduciaries properly understand the scope of their ongoing responsibilities with respect to brokerage windows. The information received in response to this RFI will assist the Department in determining whether, and to what extent, regulatory standards or safeguards, or other guidance, are necessary to protect participants' retirement savings. The RFI contains a number of questions. Respondents need not answer every question, but should identify, by its number, each question addressed. Interested persons also are encouraged to address any other matters they believe to be germane to the general topic of this RFI.

Defining ''Brokerage Windows''—Scope. The Department understands that a variety of different plan and investment arrangements may be encompassed by the terms ''brokerage window,'' ''self-directed brokerage account,'' and similar arrangements. For example, open mutual fund windows may permit participants to invest in hundreds or thousands of mutual funds. More limited mutual fund windows or ''supermarkets'' may permit participants to invest in any mutual fund on one or more of a particular vendor's platforms, but not necessarily every mutual fund on the market. Other brokerage accounts also offer participants access to a virtually unlimited number of individual stocks, exchange-traded funds, and other securities.

1. What are the various brokerage window, self-directed brokerage account, and similar arrangements that are made available in 401(k) plans, and which one (or more) is the most common? What are the benefits and drawbacks of these various arrangements?

2. If a more specific definition of a ''brokerage window'' is provided, as a regulatory or interpretive matter, how should it be defined?

3. Should the fiduciary, disclosure, or other standards that apply to brokerage windows (and which are raised in more detail below) vary depending on the type of arrangement, or perhaps the ultimate number of investment options available to participants (*e.g.,* a mutual fund window that offers access to fifty mutual funds vs. an open brokerage structure that offers access to many thousands of stocks, mutual funds, and other securities) and, if so, how?

Plan Investment Offerings—Brokerage Windows and Designated Investment Alternatives

4. What are the characteristics of plans that offer brokerage windows?

5. Is the number of plans offering brokerage windows increasing, decreasing, or remaining relatively constant? If the number is changing, why?

6. What is a typical number of ''designated investment alternatives'' offered by a 401(k) plan? Are plans increasing, decreasing, or holding constant the number of designated investment alternatives that they offer? If the number is changing, why?

7. Is there any correlation between the trends observed in the preceding two questions, and if so, what is the correlation?

8. At what point might the number of investment options available to plan participants warrant treating the options as a ''brokerage window'' of some variety, rather than as a menu of ''designated investment alternatives?'' Does the detailed investment-related information required by the Department's participant-level disclosure regulation for designated investment alternatives (vs. brokerage windows) affect the answer to this question and, if so, how?

Participation in Brokerage Windows

9. How many participants, or what proportion of participants, typically use their plan's brokerage window? What proportion of a plan's total assets typically is invested through the brokerage window?

10. Do respondents have demographic data on these participants, either for a particular plan or more broadly?

11. Of the participants that use their plan's brokerage window, do these participants typically invest all of the assets in their plan account through the window, or some proportion of their assets?

12. What types of restrictions, if any, are typically made on brokerage window participation (*e.g.,* minimum account balances, minimum dollar amounts that may be transferred to a brokerage window, maximum percentage of account balance that may be invested through a brokerage window, etc.)?

13. Is there evidence of good or poor decision-making and outcomes by those participants using brokerage windows? What types of evidence are available?

14. What benefits accrue to participants that invest through brokerage windows? Do participants who do not invest through the brokerage window benefit from having a brokerage window option in their plan, and if so, how?

Selecting and Monitoring Brokerage Windows and Service Providers

15. How many vendors does a plan fiduciary research or contact, on average, when deciding whether to include a brokerage window feature? How do vendors typically market brokerage windows to their existing or potential plan clients?

16. Do plan recordkeepers typically require the use of their own or affiliated brokerage services, or are plan fiduciaries able to shop for brokerage windows provided by multiple vendors? Are there ways in which brokerage window providers favor or encourage investment in proprietary funds or products through brokerage windows?

17. What factors do plan fiduciaries consider and what challenges, if any, do they face when deciding whether to include a brokerage window and who should provide the window?

18. What are the most common reasons for adding a brokerage window feature (*e.g.,* flexibility and increased investment options for participants, to facilitate the ability of participants to work with an adviser or a managed account provider, etc.)? What role, if any, do concerns about fiduciary responsibility or disclosure obligations play in deciding whether to add a brokerage window?

19. When a plan fiduciary selects a brokerage window feature for a plan, does the plan fiduciary typically enter into a contract for this service, on behalf of the plan? If so, who are the parties to the contract? If not, why not?

20. Do plan participants themselves commonly contract with the vendor when they choose to participate in the brokerage window (either in lieu of, or in addition to, a contract with a plan official) and, if so, what role, if any, does a plan fiduciary play in this process?

21. What role, if any, do plan fiduciaries play in the selection of brokers, advisers, or other service providers to a brokerage window? How do plan fiduciaries monitor the performance of these service providers if at all?

Fiduciary Access to Information About Brokerage Window Investments

22. How do plan fiduciaries monitor investments made through their plan's brokerage window, if at all? For example, do plan fiduciaries have access to information about specific investments that are selected or asset class or allocation information?

23. Do fiduciaries view this information as important to effectively monitoring the inclusion of a brokerage window feature in their plan? If applicable, how often do plan fiduciaries request and review such information?

24. What, if any, technological or other challenges exist that may reduce the feasibility, or increase the cost, of compiling this type of information for plan fiduciaries? Can respondents quantify such costs?

Brokerage Window Costs

25. What are the most common costs associated with participation in a brokerage window (*e.g.,* account fees, brokerage commissions, etc.), and what dollar amounts are typically charged? Are there costs to including a brokerage window that usually are borne by the plan sponsor or by the plan, rather than by individual participants who use the brokerage window?

26. To what extent are brokerage windows effectively subsidized by plan participants other than those participating in the brokerage window?

27. How do the costs of investing through a brokerage window typically compare to investing in a plan's designated investment alternatives? How do the costs compare to investing outside of the plan, *e.g.,* in an IRA?

28. How significant of a factor to plan fiduciaries are these costs when deciding to add a brokerage window to their plan? How do plan fiduciaries monitor or oversee the fees and costs of a brokerage window, available investments, and related services? How much discretion does a plan fiduciary have in negotiating brokerage commissions and other costs that presumably cannot be controlled by participants?

Disclosure Concerning Brokerage Windows and Underlying Investments

29. Is the information required to be disclosed about brokerage windows by the Department's participant-level disclosure regulation sufficient to protect plan participants? Is this required information more or less than plans disclosed prior to the effective date of the regulation? Does this information usually come from plan administrators or from a third party, such as plan service or investment providers? What additional information, if any, is or should be disclosed to participants?

30. Is different or additional information disclosed to participants after they elect to participate in a brokerage window and, if so, what information?

31. The Department has said that disclosures regarding brokerage windows or similar arrangements under the participant-level fee disclosure regulation must, at a minimum, provide sufficient information to enable participants and beneficiaries to understand how the brokerage window works (*e.g.,* how and to whom to give investment instructions; account balance requirements, if any; restrictions or limitations on trading, if any; how the brokerage window differs from the plan's designated investment alternatives) and who to contact with questions. See FAB 2012–02R at Q&A 13. Do these disclosures regarding how the brokerage window differs from the plan's designated investment alternatives typically include a description of the different risks and costs of investing through a brokerage window compared to investing in a designated investment alternative? Also, do the disclosures typically include a description of differences in fiduciary duties owed to participants investing through a brokerage window compared to investing in a designated investment alternative?

32. In a recent report entitled, *401(k) PLANS: Improvements Can Be Made to Better Protect Participants in Managed Accounts,* GAO–14–310 (June 2014), the United States Government Accountability Office (GAO) recognized that managed account or similar services could be available to participants through brokerage windows. GAO recommended that the Department, among other things, amend regulations under title I of ERISA to require plan sponsors who offer managed account services to provide participants with standardized performance and benchmarking information on managed accounts. For example, one GAO suggestion is that plan officials could be required to periodically furnish each managed account participant with the aggregate performance of participants' managed account portfolios and returns for broad-based securities market indices and applicable customized benchmarks. To what extent is the GAO recommendation feasible and advisable for participants who access managed account services with or without a brokerage window?

The Role of Advisers

33. How often do plan fiduciaries engage advisers to assist with decisions

about whether, and what type of brokerage window to include in their plan?

34. How often do plan participants use an adviser or a provider of managed account services to help them make investments through a plan brokerage window?

35. Do plans generally make advisers or managed account providers available to participants for this purpose and, if so, do the advisers or managed account providers typically contract with the plan or with the participant?

36. How often do plan participants independently select advisers or other providers to assist with their investments through the brokerage window? Are plan fiduciaries, recordkeepers, or other service providers generally aware of these arrangements?

Fiduciary Duties

In connection with the issuance of FAB 2012–02 and FAB 2012–02R, the Department became aware of the possibility that plan fiduciaries and service providers have questions regarding the nature and extent of ERISA's fiduciary of duties under section 404(a) of ERISA in connection with brokerage windows in plans intended to be ''ERISA 404(c) plans.''

37. Do these questions indicate a need for guidance, regulatory or otherwise, on brokerage windows under ERISA's fiduciary provisions? For instance, is there a need to clarify the extent of a fiduciary's duties of prudence, loyalty, and diversification under section 404(a) of ERISA, both with respect to brokerage window itself, as a plan feature, and with respect to the investments through the window? If guidance is needed, please try to identify the precise circumstances in need of guidance. If no guidance is needed, please explain why not.

Annual Reporting and Periodic Pension Benefit Statements

38. The annual reporting requirements contain a special provision for plans with brokerage windows. Specifically, subject to certain exceptions, the Schedule H allows plans to report certain classes of investments made through a brokerage window as an aggregate amount under a catch-all ''other'' category rather than by type of asset on the appropriate line item from the asset category, *e.g.,* common stocks, mutual funds, employer securities, etc. Should this special provision be changed to require more detail and transparency regarding these investments? If so, what level of transparency is appropriate, taking into account current technology and the administrative burdens and costs of increased transparency?

39. ERISA section 105 requires plans to furnish benefit statements at least quarterly in the case of participant-directed individual account plans. How do these benefit statements typically reflect investments made through brokerage windows?

Signed at Washington, DC, this 7th day of August 2014.

Phyllis C. Borzi,

Assistant Secretary, Employee Benefits Security Administration, Department of Labor.

[FR Doc. 2014–19832 Filed 8–20–14; 8:45 am]

BILLING CODE 4510–29–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–RO1–OAR–2012–0848; A–1–FRL–9912–99–Region 1]

Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Reasonably Available Control Technology for Nitrogen Oxides and Volatile Organic Compounds

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of New Hampshire. These revisions contain an updated New Hampshire regulation establishing reasonably available control technology (RACT) for sources of nitrogen oxides (NO_X), RACT orders for four facilities, and a request to withdraw a previously approved NO_X RACT order from the SIP. The intended effect of this action is to propose approval of this updated regulation and four RACT orders into the New Hampshire SIP, and to propose to withdraw from the SIP a previously approved NO_X RACT order. This action is being taken in accordance with the Clean Air Act.

DATES: Written comments must be received on or before September 22, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. RO1–OAR–2012–0848 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-Mail: arnold.anne@epa.gov.*

3. *Fax:* (617) 918–0047.

4. *Mail:* ''EPA–RO1–OAR–2012–0848,'' Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912.

5. *Hand Delivery or Courier.* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Please see the direct final rule which is located in the Rules Section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Bob McConnell, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05–2), Boston, MA 02109–3912, telephone number (617) 918–1046, fax number (617) 918–0046, email *mcconnell.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: July 29, 2014.

H. Curtis Spalding,

Regional Administrator, EPA New England.

[FR Doc. 2014–19517 Filed 8–20–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R03–OAR–2014–0281; FRL– 9915–49–Region–3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Redesignation Request and Associated Maintenance Plan for the Maryland Portion of the Martinsburg-Hagerstown, WV-MD Nonattainment Area for the 1997 Annual Fine Particulate Matter Standard

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the State of Maryland's request to redesignate to attainment the Maryland portion of the Martinsburg-Hagerstown, WV-MD Nonattainment Area (Martinsburg Area or Area) for the 1997 annual fine particulate matter ($PM_{2.5}$) national ambient air quality standard (NAAQS). The Maryland portion of the Martinsburg Area is comprised of Washington County, Maryland. EPA has determined that the Martinsburg Area attained the standard and continues to attain the standard. In addition, EPA is proposing to approve, as a revision to the Maryland State Implementation Plan (SIP), the Washington County maintenance plan to show maintenance of the 1997 annual $PM_{2.5}$ NAAQS through 2025 for the Maryland portion of the Area. The maintenance plan includes the 2017 and 2025 $PM_{2.5}$ and nitrogen oxides (NO_X) mobile vehicle emissions budgets (MVEBs) for Washington County, Maryland for the 1997 annual $PM_{2.5}$ NAAQS, which EPA is proposing to approve for transportation conformity purposes. These actions are being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before September 22, 2014.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2014–0281 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *Email: fernandez.cristina@epa.gov.*

C. *Mail:* EPA–R03–OAR–2014–0281, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2014–0281. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, Air and Radiation Management Administration, 1800 Washington Boulevard, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Marilyn Powers, at (215) 814–2308, or by email at *powers.marilyn@epa.gov.*

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I. Background

The first air quality standards for $PM_{2.5}$ were established on July 18, 1997 (62 FR 38652). EPA promulgated an annual standard at a level of 15 micrograms per cubic meter ($\mu g/m^3$), based on a three-year average of annual mean $PM_{2.5}$ concentrations (the 1997 annual $PM_{2.5}$ standard). In the same rulemaking, EPA promulgated a 24-hour standard of 65 $\mu g/m^3$ based on a three-year average of the 98th percentile of 24-hour concentrations.

On January 5, 2005 (70 FR 944, 1014), EPA published air quality area designations for the 1997 $PM_{2.5}$ NAAQS. In that rulemaking action, EPA designated the Martinsburg Area as nonattainment for the 1997 annual $PM_{2.5}$ NAAQS. The Martinsburg Area is comprised of Washington County in Maryland and Berkeley County in West Virginia. *See* 40 CFR 81.321 (Maryland) and 40 CFR 81.349 (West Virginia).

On October 17, 2006 (71 FR 61144), EPA retained the annual average standard at 15 $\mu g/m^3$, but revised the 24-hour standard to 35 $\mu g/m^3$, based again on the three-year average of the 98th percentile of the 24-hour concentrations (the 2006 annual $PM_{2.5}$ standard). On November 13, 2009 (74 FR 58688), EPA published designations for the 2006 24-

hour $PM_{2.5}$ standard, which became effective on December 14, 2009. In that rulemaking action, EPA designated the Martinsburg Area as attainment for the 2006 24-hour $PM_{2.5}$ NAAQS. *See* 74 FR 58737 and 40 CFR 81.321 (Maryland) and also *see* 74 FR 58775 and 40 CFR 81.349 (West Virginia). Since the Martinsburg Area is designated nonattainment for the annual NAAQS promulgated in 1997, today's proposed rulemaking action addresses the redesignation to attainment only for this standard.

On November 20, 2009 (74 FR 60199), EPA determined that the Martinsburg Area had attained the 1997 annual $PM_{2.5}$ NAAQS. Pursuant to 40 CFR 51.1004(c) and based on this determination, the requirements for States that comprise the Martinsburg Area to submit attainment demonstrations and associated reasonably available control measures (RACM), reasonable further progress (RFP) plans, contingency measures, and other planning SIP revisions related to the attainment of the 1997 annual $PM_{2.5}$ NAAQS are suspended until such time as: (1) the Area is redesignated to attainment for the standard, at which time the requirements no longer apply or (2) EPA determines that the Area has again violated the standard, at which time such plans are required to be submitted. On January 20, 2012 (77 FR 1411), EPA determined that the Martinsburg Area had attained the 1997 annual $PM_{2.5}$ NAAQS by the statutory attainment date of April 5, 2010.

On December 12, 2013, the State of Maryland, through the Maryland Department of the Environment (MDE), formally submitted a request to redesignate the Maryland portion of the Martinsburg Area from nonattainment to attainment for the 1997 annual $PM_{2.5}$ NAAQS. Concurrently, MDE submitted a maintenance plan for Washington County as a SIP revision to ensure continued attainment throughout the Maryland portion of the Area over the next 10 years. In addition, the maintenance plan includes the 2017 and 2025 $PM_{2.5}$ and NO_X MVEBs used for transportation conformity purposes for Washington County, Maryland for the 1997 annual $PM_{2.5}$ NAAQS.

II. EPA's Requirements

A. Criteria for Redesignation to Attainment

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation providing that: (1) EPA determines that the area has attained the applicable NAAQS; (2) EPA has fully approved the applicable implementation plan for the area under section 110(k) of the CAA; (3) EPA determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (4) EPA has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and, (5) the state containing such area has met all requirements applicable to the area under section 110 and part D of the CAA. Each of these requirements are discussed in section V. (EPA's Analysis of Maryland's SIP Submittal) of this proposed rulemaking action.

EPA has provided guidance on redesignation in the ''State Implementation Plans; General Preamble for the Implementation of Title I of the CAA Amendments of 1990,'' (57 FR 13498, April 16, 1992) (the ''General Preamble'') and has provided further guidance on processing redesignation requests in the following documents: (1) ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (hereafter referred to as the ''1992 Calcagni Memorandum''); (2) ''SIP Actions Submitted in Response to CAA Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992; and, (3) ''Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994.

B. Requirements of a Maintenance Plan

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A of the CAA, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after approval of a redesignation of an area to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures, with a schedule for implementation, as EPA deems necessary to assure prompt correction of any future $PM_{2.5}$ violations.

The 1992 Calcagni Memorandum provides additional guidance on the content of a maintenance plan. The memorandum states that a $PM_{2.5}$ maintenance plan should address the following provisions: (1) An attainment emissions inventory; (2) a maintenance demonstration showing maintenance for 10 years; (3) a commitment to maintain the existing monitoring network; (4) verification of continued attainment; and, (5) a contingency plan to prevent or correct future violations of the NAAQS.

Under the CAA, states are required to submit, at various times, control strategy SIP revisions and maintenance plans for nonattainment areas and for areas seeking redesignation to attainment for a given NAAQS. These emission control strategy SIP revisions (e.g., RFP and attainment demonstration SIP revisions) and maintenance plans create MVEBs based on onroad mobile source emissions for the relevant criteria pollutants and/or their precursors, where appropriate, to address pollution from onroad transportation sources. The MVEBs are the portions of the total allowable emissions that are allocated to onroad vehicle use that, together with emissions from all other sources in the area, will provide attainment, RFP, or maintenance, as applicable. The budget serves as a ceiling on emissions from an area's planned transportation system. Under 40 CFR part 93, a MVEB for an area seeking a redesignation to attainment is established for the last year of the maintenance plan.

The maintenance plan for Washington County includes the 2017 and 2025 $PM_{2.5}$ and NO_X MVEBs for transportation conformity purposes. The transportation conformity determination for the Area is further discussed in section V.C. (Transportation Conformity) of this proposed rulemaking action and a technical support document (TSD) dated April 3, 2014 is available in the docket for this proposed rulemaking action.

III. Summary of Proposed Actions

EPA is proposing to take several rulemaking actions related to the redesignation of the Maryland portion of the Area to attainment for the 1997 annual $PM_{2.5}$ NAAQS. EPA is proposing to find that the Maryland portion of the Area meets the requirements for redesignation for the 1997 annual $PM_{2.5}$ NAAQS under section 107(d)(3)(E) of the CAA. EPA is proposing to approve the maintenance plan for the Maryland portion of the Area as a revision to the Maryland SIP for the 1997 annual $PM_{2.5}$

NAAQS. The approval of a maintenance plan is one of the CAA criteria for redesignation of the Area to attainment. The Washington County maintenance plan is designed to ensure continued attainment of the 1997 annual $PM_{2.5}$ standard in the Maryland portion of the Area for 10 years after redesignation. EPA is also proposing to approve the MVEBs for $PM_{2.5}$ and NO_X emissions for the 1997 annual $PM_{2.5}$ standard, which are included as part of the Washington County maintenance plan.

EPA previously determined that the Martinsburg Area has attained the 1997 annual $PM_{2.5}$ NAAQS, 74 FR 60199 (November 20, 2009) and 77 FR 1411 (January 10, 2012) and, in the rulemaking action proposing approval of the redesignation request for the West Virginia portion of the Area, EPA proposed to find that the Area continues to attain the standard, 79 FR 25540 (May 5, 2014). EPA is, therefore, proposing to approve MDE's request to change the designation for the Maryland portion of the Martinsburg Area from nonattainment to attainment for the 1997 annual $PM_{2.5}$ NAAQS. This action does not impact the designation of the West Virginia portion of the Area, for which EPA is taking separate action. *See* 79 FR 25540, May 5, 2014 for information related to the redesignation of the West Virginia portion of the Area, Docket I.D. EPA–R03–OAR–2013–0690.

IV. Effects of Recent Court Decisions on Proposed Actions

In this proposed rulemaking action, EPA considers the effects of three legal decisions on this redesignation. EPA first considers the effects of the D.C. Circuit Court and U.S. Supreme Court's decisions in *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7 (D.C. Cir. 2012), *rev'd,* No. 12–1182 (S. Ct. April 29, 2014). The Supreme Court reversed the D.C. Circuit Court decision vacating and remanding CSAPR. EPA is also considering the effect of the January 4, 2013 D.C. Circuit decision remanding to EPA the ''Final Clean Air Fine Particle Implementation Rule'' (72 FR 20586, April 25, 2007) and the ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' final rule (73 FR 28321, May 16, 2008) (collectively, ''1997 $PM_{2.5}$ Implementation Rule''). *Natural Resources Defense Council (NRDC*) v. *EPA,* 706 F.3d 428 (D.C. Cir. 2013).

A. Effect of the Supreme Court and D.C. Circuit Court's Decisions Regarding EPA's CSAPR

EPA has considered the recent decisions from the U.S. Supreme Court and the D.C. Circuit Court regarding EPA's CSAPR, and has concluded that the decisions do not affect the Agency's proposal to redesignate the Maryland portion of the Martinsburg Area from nonattainment to attainment for the 1997 annual $PM_{2.5}$ NAAQS. EPA promulgated CSAPR (76 FR 48208, August 8, 2011) to replace the Clean Air Interstate Rule (CAIR), which has been in place since 2005. *See* 76 FR 59517. Both CSAPR and CAIR require significant reductions in emissions of SO_2 and NO_X from electric generating units (EGUs) to limit the interstate transport of these pollutants and the ozone and fine particulate matter they form in the atmosphere. The D.C. Circuit Court initially vacated CAIR, *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR, *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008). After staying the implementation of CSAPR on December 20, 2011 and instructing EPA to continue to implement CAIR in the interim, on August 21, 2012, the D.C. Circuit Court issued a decision to vacate CSAPR, with further instruction to continue administering CAIR ''pending the promulgation of a valid replacement.'' *EME Homer City Generation L.P.* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012). On April 29, 2014, the Supreme Court reversed the opinion of the D.C. Circuit Court and remanded the matter to the D.C. Circuit Court for further proceedings. *EPA* v. *EME Homer City Generation, L.P.,* No. 12–1182 (S. Ct. April 29, 2014).

In its submission, Maryland does not rely on either CAIR or CSAPR for emission reductions that contributed to the Martinsburg Area's attainment of the 1997 annual $PM_{2.5}$ NAAQS, nor does the State rely on either of the rules to show maintenance of the standard in the Maryland portion of the Area for 10 years following redesignation. However, because CAIR was promulgated in 2005 and incentivized sources and states to begin achieving early emission reductions, the air quality data examined by EPA in issuing a final determination of attainment for the Martinsburg Area in 2009 (November 20, 2009, 74 FR 60119) and the air quality data from the Area since 2005 necessarily reflect reductions in emissions from upwind sources as a result of CAIR. Nonetheless, in this case EPA believes that it is appropriate to redesignate the Maryland portion of the Area. Modeling conducted by EPA during the CSAPR rulemaking process, which used a baseline emissions scenario that ''backed out'' the effects of CAIR, *see* 76 FR at 48223, projected that the counties in the Martinsburg Area would have $PM_{2.5}$ annual design values [1] below the level of the 1997 annual $PM_{2.5}$ standard for 2012 and 2014 without taking into account emission reductions from CAIR or CSAPR. *See* Appendix B of EPA's ''Air Quality Modeling Final Rule Technical Support Document,'' (Page B–46), which is available in the docket for this proposed rulemaking action. In addition, the 2010–2012 quality-assured, quality-controlled, and certified monitoring data for the Martinsburg Area confirms that 2012 $PM_{2.5}$ annual design values for each monitoring site in the Area remained well below the 1997 annual $PM_{2.5}$ NAAQS, and, thus, the entire Area continued to attain the standard in 2012. *See* Table 1 of this proposed rulemaking action for the Martinsburg Area's monitoring data for 2010–2012.

The status of CSAPR is not relevant to this redesignation. CSAPR was promulgated in June 2011, and the rule was stayed by the D.C. Circuit Court just six months later, before the trading programs it created were scheduled to go into effect. Therefore, the Martinsburg Area's attainment of the 1997 annual $PM_{2.5}$ standard cannot have been a result of any emission reductions associated with CSAPR. In sum, neither the current status of CAIR nor the current status of CSAPR affects any of the criteria for proposed approval of this redesignation request for the Maryland portion of the Area.

B. Effect of the January 4, 2013 D.C. Circuit Court Decision Regarding the $PM_{2.5}$ Implementation Under Subpart 4 of Part D of Title I of the CAA

1. Background

On January 4, 2013, in *Natural Resources Defense Council* v. *EPA,* the D.C. Circuit Court remanded to EPA the ''Final Clean Air Fine Particle Implementation Rule'' (72 FR 20586, April 25, 2007) and the ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' final rule (73 FR 28321, May 16, 2008) (collectively, ''1997 $PM_{2.5}$ Implementation Rule''). 706 F.3d 428 (D.C. Cir. 2013). The D.C. Circuit Court found that EPA erred in implementing the 1997 $PM_{2.5}$ NAAQS pursuant to the

[1] As defined in 40 CFR part 50, Appendix N, section (1)(c). A monitoring site's design value is compared to the level of the 1997 annual $PM_{2.5}$ NAAQS to determine compliance with the standard.

general implementation provisions of subpart 1 of Part D of Title I of the CAA (subpart 1), rather than the particulate-matter-specific provisions of subpart 4 of Part D of Title I (subpart 4).

Prior to the January 4, 2013 decision, the states had worked towards meeting the air quality goals of the 1997 annual $PM_{2.5}$ NAAQS in accordance with EPA regulations and guidance derived from subpart 1. Subsequent to this decision, in rulemaking that responds to the D.C. Circuit Court's remand, EPA took this history into account by setting a new deadline for any remaining submissions that may be required for moderate nonattainment areas as a result of the Court's decision regarding subpart 4.

On June 2, 2014 (79 FR 31566), EPA finalized the ''Identification of Nonattainment Classification and Deadlines for Submission of SIP Provisions for the 1997 $PM_{2.5}$ NAAQS and 2006 $PM_{2.5}$ NAAQS'' rule (the $PM_{2.5}$ Subpart 4 Classification and Deadline Rule). The rule identifies the classification under subpart 4 for areas currently designated nonattainment for the 1997 annual and/or 2006 24-hour $PM_{2.5}$ standards and sets a new deadline for states to submit attainment-related and other SIP elements required for these areas pursuant to subpart 4. The rule also identifies EPA guidance that is currently available regarding subpart 4 requirements. The $PM_{2.5}$ Subpart 4 Classification and Deadline Rule specifies December 31, 2014 as the deadline for the states to submit any additional attainment-related SIP elements that may be needed to meet the applicable requirements of subpart 4 for areas currently designated nonattainment for the 1997 annual and/or 2006 24-hour $PM_{2.5}$ NAAQS and to submit SIPs addressing the nonattainment NSR requirements in subpart 4. Therefore, as explained in detail in the following section, any additional attainment-related SIP elements that may be needed for the Maryland portion of the Area to meet the applicable requirements of subpart 4 were not due at the time that MDE submitted its redesignation request for the Maryland portion of the Area. Maryland submitted its request for redesignating the Maryland portion of the Area for the 1997 annual $PM_{2.5}$ NAAQS on December 12, 2013.

2. Proposal on This Issue

EPA has considered the effect of the D.C. Circuit Court's January 4, 2013 ruling and the $PM_{2.5}$ Subpart 4 Nonattainment Classification and Deadline Rule on Maryland's request for redesignation of the Maryland portion of the Area. In this proposed rulemaking action, EPA is proposing to determine that the D.C. Circuit Court's January 4, 2013 decision does not prevent EPA from redesignating the Maryland portion of the Area to attainment. Even in light of the D.C. Circuit Court's decision, redesignation for the Area is appropriate under the CAA and EPA's longstanding interpretations of the CAA provisions regarding redesignation. EPA first explains its longstanding interpretation that requirements that are imposed, or that become due, after a complete redesignation request is submitted for an area that is attaining the standard, are not applicable for purposes of evaluating a redesignation request. Second, EPA then shows that, even if EPA applies the subpart 4 requirements to the redesignation request for the Maryland portion of the Area and disregards the provisions of its 1997 annual $PM_{2.5}$ implementation rule recently remanded by the D.C. Circuit Court, the State's request for redesignation of the Area still qualify for approval. EPA's discussion takes into account the effect of the D.C. Circuit Court's ruling and the proposed $PM_{2.5}$ Subpart 4 Classification and Deadline Rule on the Area's maintenance plan, which EPA views as approvable when subpart 4 requirements are considered.

a. Applicable Requirements Under Subpart 4 for Purposes of Evaluating the Redesignation Request for the Maryland Portion of the Martinsburg Area

With respect to the 1997 $PM_{2.5}$ Implementation Rule, the D.C. Circuit Court's January 4, 2013 ruling rejected EPA's reasons for implementing the $PM_{2.5}$ NAAQS solely in accordance with the provisions of subpart 1, and remanded that matter to EPA, so that it could address implementation of the 1997 annual $PM_{2.5}$ NAAQS under subpart 4, in addition to subpart 1. For the purposes of evaluating the redesignation request for the Maryland portion of the Area, to the extent that implementation under subpart 4 would impose additional requirements for areas designated nonattainment, EPA believes that those requirements are not ''applicable'' for the purposes of CAA section 107(d)(3)(E), and thus EPA is not required to consider subpart 4 requirements with respect to the redesignation of the Maryland portion of the Area. Under its longstanding interpretation of the CAA, EPA has interpreted section 107(d)(3)(E) to mean, as a threshold matter, that the part D provisions which are ''applicable'' and which must be approved in order for EPA to redesignate an area include only those which came due prior to a state's submittal of a complete redesignation request. *See* 1992 Calcagni Memorandum. *See also* ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992,'' Memorandum from Michael Shapiro, Acting Assistant Administrator, Air and Radiation, September 17, 1993 (Shapiro memorandum); Final Redesignation of Detroit-Ann Arbor, (60 FR 12459, 12465–66, March 7, 1995); Final Redesignation of St. Louis, Missouri, (68 FR 25418, 25424–27, May 12, 2003); *Sierra Club* v. *EPA,* 375 F.3d 537, 541 (7th Cir. 2004) (upholding EPA's redesignation rulemaking applying this interpretation and expressly rejecting Sierra Club's view that the meaning of ''applicable'' under the statute is ''whatever should have been in the plan at the time of attainment rather than whatever actually was in the plan and already implemented or due at the time of attainment'').[2] In this case, at the time that States submitted their redesignation requests, the requirements under subpart 4 were not due.

EPA's view that, for purposes of evaluating the redesignation of the Maryland portion of the Area, the subpart 4 requirements were not due at the time Maryland submitted the redesignation request is in keeping with the EPA's interpretation of subpart 2 requirements for subpart 1 ozone areas redesignated subsequent to the D.C. Circuit Court's decision in *South Coast Air Quality Mgmt. Dist.* v. *EPA,* 472 F.3d 882 (D.C. Cir. 2006). In *South Coast,* the D.C. Circuit Court found that EPA was not permitted to implement the 1997 8-hour ozone standard solely under subpart 1, and held that EPA was required under the statute to implement the standard under the ozone-specific requirements of subpart 2 as well. Subsequent to the *South Coast* decision, in evaluating and acting upon redesignation requests for the 1997 8-hour ozone standard that were submitted to EPA for areas under subpart 1, EPA applied its longstanding interpretation of the CAA that ''applicable requirements,'' for purposes of evaluating a redesignation, are those that had been due at the time the redesignation request was submitted. *See, e.g.,* Proposed Redesignation of Manitowoc County and Door County

[2] Applicable requirements of the CAA that come due subsequent to the area's submittal of a complete redesignation request remain applicable until a redesignation is approved, but are not required as a prerequisite to redesignation. Section 175A(c) of the CAA.

Nonattainment Areas (75 FR 22047, 22050, April 27, 2010). In those actions, EPA, therefore, did not consider subpart 2 requirements to be ''applicable'' for the purposes of evaluating whether the area should be redesignated under section 107(d)(3)(E).

EPA's interpretation derives from the provisions of section 107(d)(3). Section 107(d)(3)(E)(v) states that, for an area to be redesignated, a state must meet ''all requirements 'applicable' to the area under section 110 and part D.'' Section 107(d)(3)(E)(ii) provides that the EPA must have fully approved the ''applicable'' SIP for the area seeking redesignation. These two sections read together support EPA's interpretation of ''applicable'' as only those requirements that came due prior to submission of a complete redesignation request. First, holding states to an ongoing obligation to adopt new CAA requirements that arose after the state submitted its redesignation request, in order to be redesignated, would make it problematic or impossible for EPA to act on redesignation requests in accordance with the 18-month deadline Congress set for EPA action in section 107(d)(3)(D). If ''applicable requirements'' were interpreted to be a continuing flow of requirements with no reasonable limitation, states, after submitting a redesignation request, would be forced continuously to make additional SIP submissions that in turn would require EPA to undertake further notice-and-comment rulemaking actions to act on those submissions. This would create a regime of unceasing rulemaking that would delay action on the redesignation request beyond the 18-month timeframe provided by the CAA for this purpose.

Second, a fundamental premise for redesignating a nonattainment area to attainment is that the area has attained the relevant NAAQS due to emission reductions from existing controls. Thus, an area for which a redesignation request has been submitted would have already attained the NAAQS as a result of satisfying statutory requirements that came due prior to the submission of the request. Absent a showing that unadopted and unimplemented requirements are necessary for future maintenance, it is reasonable to view the requirements applicable for purposes of evaluating the redesignation request as including only those SIP requirements that have already come due. These are the requirements that led to attainment of the NAAQS. To require, for redesignation approval, that a state also satisfy additional SIP requirements coming due after the state submits its complete redesignation request, and while EPA is reviewing it, would compel the state to do more than is necessary to attain the NAAQS, without a showing that the additional requirements are necessary for maintenance.

In the context of this redesignation, the timing and nature of the D.C. Circuit Court's January 4, 2013 decision in *NRDC* v. *EPA* and EPA's November 21, 2013 proposed $PM_{2.5}$ Subpart 4 Nonattainment Classification and Deadline Rule compound the consequences of imposing requirements that come due after the redesignation request is submitted. Maryland submitted its redesignation request for the 1997 annual $PM_{2.5}$ NAAQS on December 12, 2013, which is prior to the deadline by which the Maryland portion of the Area is required to meet the applicable requirements pursuant to subpart 4.

To require Maryland's fully-completed and pending redesignation request for the 1997 annual $PM_{2.5}$ NAAQS to comply now with requirements of subpart 4 that the D.C. Circuit Court announced only in January 2013 and for which the deadline to comply has not yet come, would be to give retroactive effect to such requirements and provide the State a unique and earlier deadline for compliance solely on the basis of submitting its redesignation request for the Maryland portion of the Area. The D.C. Circuit Court recognized the inequity of this type of retroactive impact in *Sierra Club* v. *Whitman,* 285 F.3d 63 (D.C. Cir. 2002),[3] where it upheld the D.C. Circuit Court's ruling refusing to make retroactive EPA's determination that the St. Louis area did not meet its attainment deadline. In that case, petitioners urged the D.C. Circuit Court to make EPA's nonattainment determination effective as of the date that the statute required, rather than the later date on which EPA actually made the determination. The D.C. Circuit Court rejected this view, stating that applying it ''would likely impose large costs on States, which would face fines and suits for not implementing air pollution prevention plans . . . even though they were not on notice at the time.'' *Id.* at 68. Similarly, it would be unreasonable to penalize the States by rejecting their redesignation request for an area that is already attaining the 1997 annual $PM_{2.5}$ standard and that met all applicable requirements known to be in effect at the time of the requests. For EPA now to reject the redesignation requests solely because the States did not expressly address subpart 4 requirements which have not yet come due, would inflict the same unfairness condemned by the D.C. Circuit Court in *Sierra Club* v. *Whitman.*

b. Subpart 4 Requirements and Maryland Redesignation Request

Even if EPA were to take the view that the D.C. Circuit Court's January 4, 2013 decision requires that, in the context of pending redesignations for the 1997 annual $PM_{2.5}$ standard, subpart 4 requirements were due and in effect at the time Maryland submitted its redesignation request, EPA proposes to determine that the Maryland portion of the Area still qualifies for redesignation to attainment for the 1997 annual $PM_{2.5}$ standard. As explained subsequently, EPA believes that the redesignation request for the Maryland portion of the Area, though not expressed in terms of subpart 4 requirements, substantively meets the requirements of that subpart for purposes of redesignating the Maryland portion of the Area to attainment.

With respect to evaluating the relevant substantive requirements of subpart 4 for purposes of redesignating the Maryland portion of the Area, EPA notes that subpart 4 incorporates components of subpart 1, which contains general air quality planning requirements for areas designated as nonattainment. *See* section 172(c). Subpart 4 itself contains specific planning and scheduling requirements for coarse particulate matter (PM_{10})[4] nonattainment areas, and under the D.C. Circuit Court's January 4, 2013 decision in *NRDC* v. *EPA,* these same statutory requirements also apply for $PM_{2.5}$ nonattainment areas. EPA has longstanding general guidance that interprets the 1990 amendments to the CAA, making recommendations to states for meeting the statutory requirements for SIPs for nonattainment areas. *See* the General Preamble. In the General Preamble, EPA discussed the relationship of subpart 1 and subpart 4 SIP requirements, and pointed out that subpart 1 requirements were to an extent ''subsumed by, or integrally related to, the more specific PM_{10} requirements'' (57 FR 13538, April 16, 1992). The subpart 1 requirements include, among other things, provisions

[3] *Sierra Club* v. *Whitman* was discussed and distinguished in a recent D.C. Circuit Court decision that addressed retroactivity in a quite different context, where, unlike the situation here, EPA sought to give its regulations retroactive effect. *National Petrochemical and Refiners Ass'n* v. *EPA.* 630 F.3d 145, 163 (D.C. Cir. 2010), rehearing denied 643 F.3d 958 (D.C. Cir. 2011), cert denied 132 S. Ct. 571 (2011).

[4] PM_{10} refers to particulates nominally 10 micrometers in diameter or smaller.

for attainment demonstrations, RACM, RFP, emissions inventories, and contingency measures.

For the purposes of this redesignation request, in order to identify any additional requirements which would apply under subpart 4, consistent with EPA's June 2, 2014 $PM_{2.5}$ Subpart 4 Nonattainment Classification and Deadline Rule, EPA is considering the Maryland portion of the Area to be a ''moderate'' $PM_{2.5}$ nonattainment area. As EPA explained in its June 2, 2014 rule, section 188 of the CAA provides that all areas designated nonattainment areas under subpart 4 are initially classified by operation of law as ''moderate'' nonattainment areas, and will remain moderate nonattainment areas unless and until EPA reclassifies the area as a ''serious'' nonattainment area. Accordingly, EPA believes that it is appropriate to limit the evaluation of the potential impact of subpart 4 requirements to those that would be applicable to moderate nonattainment areas. Sections 189(a) and (c) of subpart 4 apply to moderate nonattainment areas and include the following: (1) An approved permit program for construction of new and modified major stationary sources (section 189(a)(1)(A)); (2) an attainment demonstration (section 189(a)(1)(B)); (3) provisions for RACM (section 189(a)(1)(C)); and (4) quantitative milestones demonstrating RFP toward attainment by the applicable attainment date (section 189(c)).

The permit requirements of subpart 4, as contained in section 189(a)(1)(A), refer to and apply the subpart 1 permit provisions requirements of sections 172 and 173 to PM_{10}, without adding to them. Consequently, EPA believes that section 189(a)(1)(A) does not itself impose for redesignation purposes any additional requirements for moderate areas beyond those contained in subpart 1.[5] In any event, in the context of redesignation, EPA has long relied on the interpretation that a fully approved nonattainment NSR program is not considered an applicable requirement for redesignation, provided the area can maintain the standard with a prevention of significant deterioration (PSD) program after redesignation. A detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' *See also* rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996).

With respect to the specific attainment planning requirements under subpart 4,[6] when EPA evaluates a redesignation request under either subpart 1 or 4, any area that is attaining the $PM_{2.5}$ standards is viewed as having satisfied the attainment planning requirements for these subparts. For redesignations, EPA has for many years interpreted attainment-linked requirements as not applicable for areas attaining the standard. In the General Preamble, EPA stated that: ''The requirements for RFP will not apply in evaluating a request for redesignation to attainment since, at a minimum, the air quality data for the area must show that the area has already attained. Showing that the State will make RFP towards attainment will, therefore, have no meaning at that point.''

The General Preamble also explained that: ''The section 172(c)(9) requirements are directed at ensuring RFP and attainment by the applicable date. These requirements no longer apply when an area has attained the standard and is eligible for redesignation. Furthermore, section 175A for maintenance plans . . . provides specific requirements for contingency measures that effectively supersede the requirements of section 172(c)(9) for these areas.'' *Id.* EPA similarly stated in its 1992 Calcagni Memorandum that: ''The requirements for reasonable further progress and other measures needed for attainment will not apply for redesignations because they only have meaning for areas not attaining the standard.''

It is evident that even if we were to consider the D.C. Circuit Court's January 4, 2013 decision in *NRDC* v. *EPA* to mean that attainment-related requirements specific to subpart 4 should be imposed retroactively [7] or prior to December 31, 2014 and, thus, were due prior to the State's redesignation request, those requirements do not apply to an area that is attaining the 1997 annual $PM_{2.5}$ NAAQS, for the purpose of evaluating a pending request to redesignate the area to attainment. EPA has consistently enunciated this interpretation of applicable requirements under section 107(d)(3)(E) since the General Preamble was published more than twenty years ago.

Courts have recognized the scope of EPA's authority to interpret ''applicable requirements'' in the redesignation context. *See Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004).

Moreover, even outside the context of redesignations, EPA has viewed the obligations to submit attainment-related SIP planning requirements of subpart 4 as inapplicable for areas that EPA determines are attaining the 1997 annual $PM_{2.5}$ standard. EPA's prior ''Clean Data Policy'' rulemakings for the PM_{10} NAAQS, also governed by the requirements of subpart 4, explain EPA's reasoning. They describe the effects of a determination of attainment on the attainment-related SIP planning requirements of subpart 4. *See* ''Determination of Attainment for Coso Junction Nonattainment Area,'' (75 FR 27944, May 19, 2010). *See also* Coso Junction Proposed PM_{10} Redesignation, (75 FR 36023, 36027, June 24, 2010); Proposed and Final Determinations of Attainment for San Joaquin Nonattainment Area (71 FR 40952, 40954–55, July 19, 2006 and 71 FR 63641, 63643–47, October 30, 2006). In short, EPA in this context has also long concluded that to require states to meet superfluous SIP planning requirements is not necessary and not required by the CAA, so long as those areas continue to attain the relevant NAAQS.

EPA has proposed to determine that the Martinsburg Area has attained and continues to attain the 1997 annual $PM_{2.5}$ NAAQS. *See* 79 FR 25540, May 5, 2014. Under its longstanding interpretation, EPA is proposing to determine here that the Maryland portion of the Area meets the attainment-related plan requirements of subparts 1 and 4 for the 1997 annual $PM_{2.5}$ NAAQS. Thus, EPA is proposing to conclude that the requirements to submit an attainment demonstration under 189(a)(1)(B), a RACM determination under section 172(c)(1) and section 189(a)(1)(c), a RFP demonstration under 189(c)(1), and contingency measure requirements under section 172(c)(9) are satisfied for purposes of evaluating this redesignation request.

c. Subpart 4 and Control of $PM_{2.5}$ Precursors

The D.C. Circuit Court in *NRDC* v. *EPA* remanded to EPA the two rules at issue in the case with instructions to

[5] The potential effect of section 189(e) on section 189(a)(1)(A) for purposes of evaluating this redesignation request is discussed in this rulemaking action.

[6] i.e., attainment demonstration, RFP, RACM, milestone requirements, contingency measures.

[7] As EPA has explained previously, we do not believe that the D.C. Circuit Court's January 4, 2013 decision should be interpreted so as to impose these requirements on the states retroactively. *Sierra Club* v. *Whitman, supra.*

EPA to re-promulgate them consistent with the requirements of subpart 4. EPA in this section addresses the D.C. Circuit Court's opinion with respect to $PM_{2.5}$ precursors. While past implementation of subpart 4 for PM_{10} has allowed for control of PM_{10} precursors such as NO_X from major stationary, mobile, and area sources in order to attain the standard as expeditiously as practicable, section 189(e) of the CAA specifically provides that control requirements for major stationary sources of direct PM_{10} shall also apply to PM_{10} precursors from those sources, except where EPA determines that major stationary sources of such precursors ''do not contribute significantly to PM_{10} levels which exceed the standard in the area.''

EPA's 1997 $PM_{2.5}$ Implementation Rule, remanded by the D.C. Circuit Court, contained rebuttable presumptions concerning certain $PM_{2.5}$ precursors applicable to attainment plans and control measures related to those plans. Specifically, in 40 CFR 51.1002, EPA provided, among other things, that a state was ''not required to address VOC [and ammonia] as . . . $PM_{2.5}$ attainment plan precursor[s] and to evaluate sources of VOC [and ammonia] emissions in the State for control measures.'' EPA intended these to be rebuttable presumptions. EPA established these presumptions at the time because of uncertainties regarding the emission inventories for these pollutants and the effectiveness of specific control measures in various regions of the country in reducing $PM_{2.5}$ concentrations. EPA also left open the possibility for such regulation of VOC and ammonia in specific areas where that was necessary.

The D.C. Circuit Court in its January 4, 2013 decision made reference to both section 189(e) and 40 CFR 51. 1002, and stated that: ''In light of our disposition, we need not address the petitioners' challenge to the presumptions in [40 CFR 51.1002] that volatile organic compounds and ammonia are not $PM_{2.5}$ precursors, as subpart 4 expressly governs precursor presumptions.'' *NRDC* v. *EPA,* at 27, n.10. Elsewhere in the D.C. Circuit Court's opinion, however, the D.C. Circuit Court observed: ''Ammonia is a precursor to fine particulate matter, making it a precursor to both $PM_{2.5}$ and PM_{10}. For a PM_{10} nonattainment area governed by subpart 4, a precursor is presumptively regulated. *See* 42 U.S.C. § 7513a(e) [section 189(e)].'' *Id.* at 21, n.7.

For a number of reasons, EPA believes that its proposed redesignation of the Maryland portion of the Area for the 1997 annual $PM_{2.5}$ NAAQS is consistent with the D.C. Circuit Court's decision on this aspect of subpart 4. While the D.C. Circuit Court, citing section 189(e), stated that ''for a PM_{10} area governed by subpart 4, a precursor is 'presumptively regulated,' '' the D.C. Circuit Court expressly declined to decide the specific challenge to EPA's 1997 $PM_{2.5}$ Implementation Rule provisions regarding ammonia and VOC as precursors. The D.C. Circuit Court had no occasion to reach whether and how it was substantively necessary to regulate any specific precursor in a particular $PM_{2.5}$ nonattainment area, and did not address what might be necessary for purposes of acting upon a redesignation request.

However, even if EPA takes the view that the requirements of subpart 4 were deemed applicable at the time the State submitted the redesignation request, and disregards the 1997 $PM_{2.5}$ Implementation Rule's rebuttable presumptions regarding ammonia and VOC as $PM_{2.5}$ precursors, the regulatory consequence would be to consider the need for regulation of all precursors from any sources in the area to demonstrate attainment and to apply the section 189(e) provisions to major stationary sources of precursors. In the case of the Maryland portion of the Area, EPA believes that doing so is consistent with proposing redesignation of the Area for the 1997 annual $PM_{2.5}$ standard. The Martinsburg Area has attained the 1997 annual $PM_{2.5}$ standard without any specific additional controls of VOC and ammonia emissions from any sources in the Area.

Precursors in subpart 4 are specifically regulated under the provisions of section 189(e), which requires, with important exceptions, control requirements for major stationary sources of PM_{10} precursors.[8] Under subpart 1 and EPA's prior implementation rule, all major stationary sources of $PM_{2.5}$ precursors were subject to regulation, with the exception of ammonia and VOC. Thus, EPA must address here whether additional controls of ammonia and VOC from major stationary sources are required under section 189(e) of subpart 4 in order to redesignate the Maryland portion of the Area for the 1997 annual $PM_{2.5}$ NAAQS. As explained subsequently, EPA does not believe that any additional controls of ammonia and VOC are required in the context of this redesignation.

In the General Preamble, EPA discusses its approach to implementing section 189(e). *See* 57 FR 13538–13542. With regard to precursor regulation under section 189(e), the General Preamble explicitly stated that control of VOC under other CAA requirements may suffice to relieve a state from the need to adopt precursor controls under section 189(e). *See* 57 FR 13542. EPA in this rulemaking action proposes to determine that Maryland's SIP has met the provisions of section 189(e) with respect to ammonia and VOC as precursors. This proposed determination is based on our findings that: (1) The Maryland portion of the Area contains no major stationary sources of ammonia; and (2) existing major stationary sources of VOC are adequately controlled under other provisions of the CAA regulating the ozone NAAQS.[9] In the alternative, EPA proposes to determine that, under the express exception provisions of section 189(e), and in the context of the redesignation of the Maryland portion of the Area, which is attaining the 1997 annual $PM_{2.5}$ standard, at present ammonia and VOC precursors from major stationary sources do not contribute significantly to levels exceeding the 1997 annual $PM_{2.5}$ standard in the Area. *See* 57 FR 13539–42.

EPA notes that its 1997 $PM_{2.5}$ Implementation Rule provisions in 40 CFR 51.1002 were not directed at evaluation of $PM_{2.5}$ precursors in the context of redesignation, but at SIP plans and control measures required to bring a nonattainment area into attainment for the 1997 annual $PM_{2.5}$ NAAQS. By contrast, redesignation to attainment primarily requires the nonattainment area to have already attained due to permanent and enforceable emission reductions, and to demonstrate that controls in place can continue to maintain the standard. Thus, even if we regard the D.C. Circuit Court's January 4, 2013 decision as calling for ''presumptive regulation'' of ammonia and VOC for $PM_{2.5}$ under the attainment planning provisions of subpart 4, those provisions in and of themselves do not require additional controls of these precursors for an area that already qualifies for redesignation. Nor does EPA believe that requiring the State to address precursors differently

[8] Under either subpart 1 or subpart 4, for purposes of demonstrating attainment as expeditiously as practicable, a state is required to evaluate all economically and technologically feasible control measures for direct PM emissions and precursor emissions, and adopt those measures that are deemed reasonably available.

[9] The Maryland portion of the Martinsburg Area has reduced VOC emissions through the implementation of various control programs including VOC Reasonably Available Control Technology (RACT) regulations and various onroad and nonroad motor vehicle control programs.

than it has already, would result in a substantively different outcome.

Although, as EPA has emphasized, its consideration here of precursor requirements under subpart 4 is in the context of a redesignation to attainment, EPA's existing interpretation of subpart 4 requirements with respect to precursors in attainment plans for PM_{10} contemplates that states may develop attainment plans that regulate only those precursors that are necessary for purposes of attainment in the area in question, i.e., states may determine that only certain precursors need be regulated for attainment and control purposes.[10] Courts have upheld this approach to the requirements of subpart 4 for PM_{10}.[11] EPA believes that application of this approach to $PM_{2.5}$ precursors under subpart 4 is reasonable. Because the Martinsburg Area has already attained the 1997 annual $PM_{2.5}$ NAAQS with its current approach to regulation of $PM_{2.5}$ precursors, EPA believes that it is reasonable to conclude in the context of this redesignation that there is no need to revisit the attainment control strategy with respect to the treatment of precursors. Even if the D.C. Circuit Court's decision is construed to impose an obligation, in evaluating this redesignation request, to consider additional precursors under subpart 4, it would not affect EPA's approval here of the State's request for redesignation of the Maryland portion of the Area for the 1997 annual $PM_{2.5}$ NAAQS. In the context of a redesignation, the State has shown that the Martinsburg Area has attained the standard. Moreover, the State has shown and EPA is proposing to determine that attainment of the 1997 annual $PM_{2.5}$ NAAQS in the Maryland portion of the Area is due to permanent and enforceable emissions reductions on all precursors necessary to provide for continued attainment of the standard (*see* section V.A.3 of this rulemaking notice). It follows logically that no further control of additional precursors is necessary. Accordingly, EPA does not view the January 4, 2013 decision of the D.C. Circuit Court as precluding redesignation of the Maryland portion of the Area to attainment for the 1997 annual $PM_{2.5}$ NAAQS at this time. In summary, even if, prior to the date of the redesignation request submittal, the State was required to address precursors for the Maryland portion of the Area under subpart 4 rather than under subpart 1, as interpreted in EPA's remanded 1997 $PM_{2.5}$ Implementation Rule, EPA would still conclude that the Maryland portion of the Area had met all applicable requirements for purposes of redesignation in accordance with section 107(d)(3(E)(ii) and (v).

V. EPA's Analysis of Maryland's SIP Submittal

EPA is proposing several rulemaking actions for the Maryland portion of the Martinsburg Area: (1) To redesignate the Area to attainment for the 1997 annual $PM_{2.5}$ NAAQS; (2) to approve into the Maryland SIP, the associated maintenance plan for the 1997 annual $PM_{2.5}$ NAAQS; and (3) to approve the 2017 and 2025 $PM_{2.5}$ and NO_X MVEBs for transportation conformity purposes. EPA's proposed approval of the redesignation request and maintenance plan for the 1997 annual $PM_{2.5}$ NAAQS is based upon EPA's determination that the Martinsburg Area continues to attain the 1997 annual $PM_{2.5}$ NAAQS, and that all other redesignation criteria have been met for the Maryland portion of the Area. The following is a description of how the December 12, 2013 Maryland submittal satisfies the requirements of section 107(d)(3)(E) of the CAA for the 1997 annual $PM_{2.5}$ NAAQS.

A. Redesignation Request

1. Attainment

EPA has previously determined that the Martinsburg Area has attained the 1997 annual $PM_{2.5}$ NAAQS. As noted previously, on November 20, 2009 (74 FR 60199), EPA determined that the Martinsburg Area had attained the 1997 annual $PM_{2.5}$ standard, based on 2007–2009 and 2008–2010 quality-assured, quality-controlled, and certified ambient air quality monitoring data. Pursuant to 40 CFR 51.2004(c), this ''clean data'' determination for the Area suspended the requirements for the State to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and other planning SIPs related to the attainment of the 1997 annual $PM_{2.5}$ NAAQS until the Area is redesignated to attainment for the standard or EPA determines that the Area has again violated the standard, at which time such plans are required to be submitted. On January 10, 2012 (77 FR 1411), EPA determined that the entire Martinsburg Area had attained the 1997 annual $PM_{2.5}$ NAAQS by its statutory attainment date of April 5, 2010, based upon complete, quality-assured and certified ambient air quality monitoring data for the period of 2007–2009.

Maryland's redesignation request submittal included the historic monitoring data for the annual $PM_{2.5}$ monitoring sites in the Martinsburg Area. The historic monitoring data shows that the Martinsburg Area has attained and continues to attain the 1997 annual $PM_{2.5}$ NAAQS. MDE assures that all $PM_{2.5}$ monitoring data for the Maryland portion of the Area has been quality-assured, quality-controlled, and certified by the State in accordance with 40 CFR 58.10. Furthermore, EPA has thoroughly reviewed the most recent ambient air quality monitoring data for $PM_{2.5}$ in the Area, as submitted by the State and recorded in EPA's Air Quality System (AQS). The $PM_{2.5}$ quality-assured, quality-controlled, and state-certified 2009–2012 air quality data shows that the Martinsburg Area continues to attain the 1997 annual $PM_{2.5}$ NAAQS. The Area's $PM_{2.5}$ annual design values for the 2009–2011, and 2010–2012 monitoring periods as well as preliminary data for 2013 are provided in Table 1.

TABLE 1—DESIGN VALUES IN THE MARTINSBURG AREA FOR THE 1997 ANNUAL $PM_{2.5}$ NAAQS FOR 2008–2010, 2009–2011 AND 2010–2012 MONITORING PERIODS

[In $\mu g/m^3$]

Monitor ID	Monitor location	Annual design values			
		2008–2010	2009–2011	2010–2012	2011–2013
54–003–0003	Martinsburg, WV	12.9	11.8	11.6	10.7
24–043–0009	Hagerstown, MD	11.0	10.9	11.3	10.5

[10] *See, e.g.,* ''Approval and Promulgation of Implementation Plans for California—San Joaquin Valley PM_{10} Nonattainment Area; Serious Area Plan for Nonattainment of the 24-Hour and Annual PM_{10} Standards,'' (69 FR 30006, May 26, 2004) (approving a PM_{10} attainment plan that impose controls on direct PM_{10} and NO_X emissions and did not impose controls on SO_2, VOC, or ammonia emissions).

[11] *See, e.g., Assoc. of Irritated Residents* v. *EPA et al.,* 423 F.3d 989 (9th Cir. 2005).

The Martinsburg Area's recent monitoring data supports EPA's previous determinations that the Area has attained the 1997 annual $PM_{2.5}$ NAAQS. In addition, as discussed subsequently with respect to the maintenance plan for the Maryland portion of the Area, the State has committed to continue monitoring ambient $PM_{2.5}$ concentrations in accordance with 40 CFR part 58.

2. The Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA and Has a Fully Approved SIP Under Section 110(k) of the CAA

In accordance with section 107(d)(3)(E)(v) of the CAA, the SIP revisions for the 1997 annual $PM_{2.5}$ NAAQS for the Maryland portion of the Area must be fully approved under section 110(k) of the CAA and all the requirements applicable to the Maryland portion of the Area under section 110 of the CAA (general SIP requirements) and part D of Title I of the CAA (SIP requirements for nonattainment areas) must be met.

a. Section 110 General SIP Requirements

Section 110(a)(2) of Title I of the CAA delineates the general requirements for a SIP, which include enforceable emissions limitations and other control measures, means, or techniques, provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality, and programs to enforce the limitations. The general SIP elements and requirements set forth in section 110(a)(2) of the CAA include, but are not limited to the following: (1) Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; (2) provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; (3) implementation of a source permit program; provisions for the implementation of Part C requirements (PSD); (4) provisions for the implementation of Part D requirements for NSR permit programs; (5) provisions for air pollution modeling; and (6) provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) of the CAA requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address the interstate transport of air pollutants in accordance with the NO_X SIP Call (63 FR 57356, October 27, 1998), amendments to the NO_X SIP Call (64 FR 26298, May 14, 1999 and 65 FR 11222, March 2, 2000), and CAIR (70 FR 25162, May 12, 2005). However, section 110(a)(2)(D) of the CAA requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that these requirements are applicable requirements for purposes of redesignation.

In addition, EPA believes that the other section 110(a)(2) elements of the CAA which are not connected with nonattainment plan submissions and not linked with an area's attainment status are not applicable requirements for purposes of redesignation. The Maryland portion of the Martinsburg Area will still be subject to these requirements after it is redesignated. EPA concludes that section 110(a)(2) of the CAA and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request, and that section 110(a)(2) elements of the CAA not linked to the area's nonattainment status are not applicable for purposes of redesignation. This approach is consistent with EPA's existing policy on applicability of conformity (i.e., for redesignations) and oxygenated fuels requirement. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174, October 10, 1996), (62 FR 24826, May 7, 1997); Cleveland-Akron-Lorain, Ohio final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida final rulemaking (60 FR 62748, December 7, 1995). *See also* the discussion on this issue in the Cincinnati, Ohio redesignation (65 FR 37890, June 19, 2000) and in the Pittsburgh, Pennsylvania redesignation (66 FR 53099, October 19, 2001).

EPA has reviewed the Maryland SIP and has concluded that it meets the general SIP requirements under section 110(a)(2) of the CAA to the extent they are applicable for purposes of redesignation. EPA has previously approved provisions of Maryland's SIP addressing section 110(a)(2) requirements, including provisions addressing $PM_{2.5}$. *See* 76 FR 72624, November 25, 2011. These requirements are, however, statewide requirements that are not linked to the $PM_{2.5}$ nonattainment status of the Maryland portion of the Area. Therefore, EPA believes that these SIP elements are not applicable requirements for purposes of review of Maryland's $PM_{2.5}$ redesignation request.

b. Subpart 1 Requirements

Subpart 1 sets forth the basic nonattainment plan requirements applicable to $PM_{2.5}$ nonattainment areas. Under section 172 of the CAA, states with nonattainment areas must submit plans providing for timely attainment and meet a variety of other requirements. The General Preamble for Implementation of Title I discusses the evaluation of these requirements in the context of EPA's consideration of a redesignation request. The General Preamble sets forth EPA's view of applicable requirements for purposes of evaluating redesignation requests when an area is attaining the standard. *See* 57 FR 13498, April 16, 1992.

As noted previously, EPA has determined that the Martinsburg Area has attained the 1997 annual $PM_{2.5}$ NAAQS. Pursuant to 40 CFR 51.2004(c), the requirement for Maryland to submit, for the Maryland portion of the Martinsburg Area, an attainment demonstration and associated RACM, an RFP plan, contingency measures, and other planning SIPs related to the attainment of the 1997 annual $PM_{2.5}$ NAAQS are suspended until the Area is redesignated to attainment for the standard, or EPA determines that the Area again violated the standard, at which time such plans are required to be submitted. Since attainment has been reached for the Area for the 1997 annual $PM_{2.5}$ NAAQS and continues to attain the standard, no additional measures are needed to provide for attainment. Therefore, the requirements of sections 172(c)(1), 172(c)(2), 172(c)(6), and 172(c)(9) of the CAA are no longer considered to be applicable for purposes of redesignation of the Maryland portion of the Area for the 1997 annual $PM_{2.5}$ NAAQS.

The requirement under section 172(c)(3) was not suspended by EPA's clean data determination for the 1997 annual $PM_{2.5}$ NAAQS, and is the only remaining requirement under section 172 of the CAA to be considered for purposes of redesignation of the Maryland portion of the Area. Section 172(c)(3) of the CAA requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions.

On December 7, 2012 (77 FR 72966), EPA approved a 2002 emissions inventory for the 1997 annual $PM_{2.5}$ NAAQS for the Maryland portion of the Area. The emissions inventory was submitted with Maryland's attainment plan for the 1997 annual $PM_{2.5}$ NAAQS on June 6, 2008, to meet the requirements of section 172(c)(3) of the CAA. The 2002 comprehensive emissions inventories for the 1997 annual $PM_{2.5}$ standard submitted by the State with its attainment plan for the Maryland portion of the Area included emissions estimates that cover the general source categories of point sources, area sources, onroad mobile sources, and nonroad mobile sources for the Maryland portion of the Area. The pollutants that comprise the State's 2002 emissions inventories for the Maryland portion of the Area are $PM_{2.5}$, NO_X, SO_2, VOC, and ammonia. An evaluation of the comprehensive emissions inventories for the Maryland portion of the Area is provided in the TSD prepared by EPA for the separate rulemaking action. *See* Docket ID No. EPA–R03–OAR–2010–0154.

Section 172(c)(4) of the CAA requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) of the CAA requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA has determined that, since the PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a nonattainment NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994 entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' Maryland's PSD program for the 1997 annual $PM_{2.5}$ NAAQS will become effective in the Maryland portion of the Martinsburg Area upon redesignation to attainment. *See* (77 FR 45949, August 2, 2012) (approving revisions to Maryland's PSD program).

Section 172(c)(7) of the CAA requires the SIP to meet the applicable provisions of section 110(a)(2) of the CAA. As noted previously, EPA believes the Maryland SIP meets the requirements of section 110(a)(2) of the CAA that are applicable for purposes of redesignation. Section 175A of the CAA requires a state seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the area ''for at least 10 years after the redesignation.'' In conjunction with its request to redesignate the Maryland portion of the Martinsburg Area to attainment status, Maryland submitted the Washington County maintenance plan as a SIP revision to provide for maintenance of the 1997 annual $PM_{2.5}$ NAAQS in the Maryland portion of the Area for at least 10 years after redesignation, through 2025. Maryland is requesting that EPA approve this SIP revision as meeting the requirement of section 175A of the CAA. Once approved, the Washington County maintenance plan will ensure that the SIP for Maryland meets the requirements of the CAA regarding maintenance of the 1997 annual $PM_{2.5}$ NAAQS for the Maryland portion of the Area. EPA's analysis of the maintenance plan is provided in section V.B (Maintenance Plan) of this document.

Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects developed, funded or approved under Title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other Federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability which EPA promulgated pursuant to its authority under the CAA. EPA interprets the conformity SIP requirements as not applying for purposes of evaluating the redesignation request under section 107(d) of the CAA because state conformity rules are still required after redesignation and Federal conformity rules apply where state rules have not been approved. *See Wall* v. *EPA,* 265 F.3d 426, (6th Cir. 2001) (upholding this interpretation). *See also* (60 FR 62748, December 7, 1995) (discussing Tampa, Florida).

Thus, for purposes of redesignating to attainment the Maryland portion of the Martinsburg Area for the 1997 annual $PM_{2.5}$ NAAQS, EPA determines that the Maryland portion of the Area has met all applicable SIP requirements under part D of Title I of the CAA.

c. The Maryland Portion of the Area Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

EPA has fully approved all applicable requirements of the Maryland SIP for the Maryland portion of the Area for purposes of redesignaton to attainment for the 1997 annual $PM_{2.5}$ NAAQS in accordance with section 110(k) of the CAA.

3. Permanent and Enforceable Reductions in Emissions

For redesignating a nonattainment area to attainment, section 107(d)(3)(E)(iii) of the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable reductions. Maryland's redesignation request indicates that a variety of federal vehicle control programs have created emission reductions that contributed to attainment in 2007. In making this demonstration, Maryland has calculated the change in emissions for the on-road sector between 2002, one of the years used to designate the Area as nonattainment, and 2007, one of the years the Area monitored attainment, as shown in Table 2.

TABLE 2—COMPARISON OF 2002 NONATTAINMENT YEAR AND 2007 ATTAINMENT YEAR REDUCTIONS FOR ON ROAD EMISSIONS IN THE MARYLAND PORTION OF THE AREA (tpy)

	2002	2007	Decrease
SO_2	286	218	68
NO_X	9,163	6,022	3,141
$PM_{2.5}$	263	45	218
VOC	2,557	1,657	990
NH_3	111	92	19
Total	12,380	8,034	4,436

The reduction in emissions and the corresponding improvement in air quality from 2002 to 2007 in the Maryland portion of the Martinsburg Area can be attributed to a number of regulatory control measures that have been implemented in the Maryland portion of the Area and contributing areas in recent years. An evaluation of the State's 2002 comprehensive emissions inventory for the Maryland portion of the Area is provided in the TSD prepared by EPA for the December 7, 2012 rulemaking action approving the base year inventory. *See* Docket ID No. EPA–R03–OAR–2010–0154. An evaluation of the 2007 emissions inventory is provided in EPA's emissions inventory TSD dated April 30, 2014, which is available in the docket for this proposed rulemaking action.

Reductions in $PM_{2.5}$ precursor emissions have occurred statewide and in upwind states as a result of Federal emission control measures, with additional emission reductions expected to occur in the future. The Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards (Tier 2 Standards) have resulted in lower NO_X and SO_2 emissions from new cars and light duty trucks, including sport utility vehicles. The Federal rules were phased in between 2004 and 2009. EPA has estimated that, after phasing in the new requirements, new vehicles emit less NO_X in the following percentages: Passenger cars (light duty vehicles)—77 percent; light duty trucks, minivans, and sports utility vehicles—86 percent; and larger sports utility vehicles, vans, and heavier trucks—69–95 percent. EPA expects fleet wide average emissions to decline by similar percentages as new vehicles replace older vehicles. The Tier 2 standards also reduced the sulfur content of gasoline to 30 parts per million (ppm) beginning in January 2006, which reflects up to a 90 percent reduction in sulfur content.

EPA issued the Heavy-Duty Diesel Engine Rule in July 2000. This rule includes standards limiting the sulfur content of diesel fuel, which went into effect in 2004. A second phase took effect in 2007 which reduced $PM_{2.5}$ emissions from heavy-duty highway engines and further reduced the highway diesel fuel sulfur content to 15 ppm. The total program is estimated to achieve a 90 percent reduction in direct $PM_{2.5}$ emissions and a 95 percent reduction in NO_X emissions for these new engines using low sulfur diesel, compared to existing engines using higher sulfur diesel fuel. The reduction in fuel sulfur content also yielded an immediate reduction in particulate sulfate emissions from all diesel vehicles.

In May 2004, EPA promulgated the Nonroad Diesel Rule for large nonroad diesel engines, such as those used in construction, agriculture, and mining, to be phased in between 2008 and 2014. The rule also reduces the sulfur content in nonroad diesel fuel by over 99 percent. Prior to 2006, nonroad diesel fuel averaged approximately 3,400 ppm sulfur. This rule limited nonroad diesel sulfur content to 500 ppm by 2006, with a further reduction to 15 ppm by 2010.

B. Maintenance Plan

On December 12, 2013, MDE submitted a maintenance plan for Washington County for the 1997 annual $PM_{2.5}$ NAAQS as required by section 175A of the CAA. EPA's analysis for proposing approval of the maintenance plan is provided in this section.

1. Attainment Emissions Inventory

Section 172(c)(3) requires states to submit a comprehensive, accurate, current inventory of actual emissions from all sources in the nonattainment area. For a maintenance plan, states are required to submit an inventory to identify the level of emissions in the area which is sufficient to attain the NAAQS, referred to as the attainment inventory (or the maintenance plan base year inventory), and which should be based on actual emissions. MDE submitted an attainment inventory for 2007, one of the years in the period during which the Martinsburg Area monitored attainment of the 1997 annual $PM_{2.5}$ standard. The attainment inventory is comprised of NO_X, $PM_{2.5}$, SO_2, VOC, and NH_3 emissions from point sources, nonpoint sources, onroad mobile sources, and nonroad mobile sources.

For the 2007 emissions inventory for point, nonpoint, and nonroad source categories, MDE submitted the 2007 Version 3 emissions inventory developed through the Mid-Atlantic Regional Air Management Association (MARAMA) regional planning process. Details related to the development of the 2007 emissions inventory can be found in the January 23, 2012 MARAMA TSD entitled ''Technical Support Document for the Development of the 2007 Emissions Inventory for the Regional Air Quality Modeling in the Northeast/Mid-Atlantic Region Version 3.3'' which may be found in Appendix D of the State's submittal, which is available in the docket for this proposed rulemaking action.

The 2007 point source inventory includes emissions from EGUs and non-EGU sources as developed by MARAMA in consultation with MDE. The nonpoint source emissions inventory for 2007 was developed using 2007 specific activity data along with EPA emission factors and the most recently available emission calculation methodologies. The 2007 nonroad mobile source emissions was generated using EPA's National Mobile Inventory Model (NMIM) 2008, which used the NONROAD 2008a emissions model. Since marine, air and rail/locomotive (MAR) emissions are not part of the NONROAD model, they were calculated separately outside of the NONROAD model using the most recent methodologies and inputs.

The 2007 onroad mobile source inventory was developed by using EPA's highway mobile source emissions model MOVES2010a and the most recent planning assumptions. Local data inputs to MOVES2010a reflect the latest available planning assumptions using data obtained from MDE, the Maryland Motor Vehicle Administration (MMVA), the Maryland State Highway

Administration (MSHA), the Hagerstown/Eastern Panhandle Metropolitan Planning Organization (HEPMPO), and other local/national sources. The 2007 onroad emissions inventory, including a summary of the methodology and data assumptions used for the analysis may be found in Appendix F of the State's submittal, available in the docket for this proposed rulemaking action.

EPA has reviewed the documentation provided by MDE and found the emissions inventory to be acceptable. For more information on the emissions inventories submitted by MDE and EPA's analysis of the inventories, see Appendices A–G of the State's submittal and EPA's emissions inventory TSD dated April 30, 2014, all of which are available on line at *www.regulations.gov,* Docket ID No. EPA–OAR–R03–2014–0281.

2. Maintenance Demonstration

Section 175A requires a state seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the area ''for at least 10 years after the redesignation.'' EPA has interpreted this as a showing of maintenance ''for a period of ten years following redesignation.'' Where the emissions inventory method of showing maintenance is used, its purpose is to show that emissions during the maintenance period will not increase over the attainment year inventory. *See* 1992 Calcagni Memorandum, pages 9–10.

For a demonstration of maintenance, emissions inventories are required to be projected to future dates to assess the influence of future growth and controls; however, the maintenance demonstration need not be based on modeling. *See Wall* v. *EPA, supra; Sierra Club* v. *EPA, supra. See also* 66 FR 53099–53100; 68 FR 25430–32. To show that the Maryland portion of the Area will remain in attainment, MDE uses projection inventories derived by applying appropriate growth and control factors to the 2007 attainment year emissions inventory. MDE developed projection inventories for an interim year of 2017 and a maintenance plan end year of 2025 to show that future emissions of SO_2, NO_X, $PM_{2.5}$, VOC, and NH_3, will remain at or below the 2007 emissions levels throughout the Maryland portion of the Area through the year 2025.

Projected emissions for EGU point sources were based on electricity generation projections delineated by region and fuel. Growth factors for EGU sources are based on the U.S. Energy Information Administration's (EIA) 2011 annual Energy Outlook (AEO2011). Projected emissions for non-EGU point sources were developed using AEO fuel consumption forecasts, State-level employment projections, and other State-specific emissions projection data.

The projected onroad mobile source inventories were developed by using MOVES2010a. Local data inputs to MOVES2010a included the most recent planning assumptions using data from MDE, MMVA, MSHA, the HEPMPO, and other local/national sources. The State developed growth factors based on consultation between the Maryland Department of Transportation, HEPMPO, and MDE.

Projected emissions for nonroad sources were developed using NMIM2008, which used the NONROAD2008a model, EPA's most recently approved emissions estimation tool for nonroad sources. Airport ground support equipment emissions were estimated based on EPA's aircraft inventory that uses the Federal Aviation Administration Emissions and Dispersion Modeling System. Because the NONROAD model does not estimate marine vessel, airport, and railroad sources, these emissions were estimated separately.

A discussion of emission projections, projection methodology, control factors and growth factors for the 2017 and 2025 inventories can be found in MARAMA's ''Technical Support Document for the Development of the 2017/2020 Emission Inventory for Regional Air Quality Modeling in the Northeast/Mid-Atlantic Region, Version 3.3'' and in the MANE–VU TSD, which are both available in the docket for this proposed rulemaking. EPA has reviewed the documentation provided by MDE and found the methodologies acceptable.

Based on the above discussion and available data, EPA has determined that the emissions inventories as provided by MDE are approvable. For more information on the State's emissions inventory submittal and EPA's analysis, *see* Appendices B and C of the State submittal and EPA's TSD dated April 30, 2014, which are available in the docket for this proposed rulemaking action. Table 3 shows a summary of the inventories for the 2007 attainment year, the 2017 interim year, and the 2025 maintenance plan end year for the Maryland portion of the Area.

TABLE 3—COMPARISON OF 2007 ATTAINMENT YEAR INVENTORY WITH 2017 AND 2025 PROJECTED EMISSIONS IN THE MARYLAND PORTION OF THE MARTINSBURG AREA (tpy)

	2007	2017	2025	Change from 2007–2017	Change from 2007–2025
SO_2	7,183	5,962	5,967	1,221	1,216
NO_X	10,781	7,909	6,466	2,872	4,315
$PM_{2.5}$	1,432	1,191	1,155	241	280
VOC	4,662	3,472	3,266	1,190	1,396
NH_3	1,206	1,184	1,192	25	14
Total	25,264	19,717	18,046	5,547	7,218

Table 3 shows that between 2007 and 2017, the Maryland portion of the Area is projected to reduce SO_2 emissions by 17 percent, NO_X emissions by 26.6 percent, $PM_{2.5}$ emissions by 16.8 percent, NH_3 by 2.1 percent, and VOC by 25.5 percent. Between 2007 and 2025, the Maryland portion of the Area is projected to reduce SO_2 emissions by 16.9 percent, NO_X emissions by 40.0 percent, $PM_{2.5}$ emissions by 19.6 percent, NH_3 by 1.2 percent and VOC by 30 percent. The projected emissions inventories show that the Maryland portion of the Area will continue to maintain the 1997 annual $PM_{2.5}$ NAAQS during the 10 year maintenance period.

3. Monitoring Network

There are two $PM_{2.5}$ monitors in the Martinsburg Area. One is located in Maryland and is operated by the Maryland Department of the Environment, and the other one is located in West Virginia and is operated by the West Virginia Division of Air

Quality. The Washington County maintenance plan includes the State's commitment to continue to operate and maintain its $PM_{2.5}$ air quality monitoring network, consistent with EPA's monitoring requirements, as necessary to demonstrate ongoing compliance with the 1997 annual $PM_{2.5}$ NAAQS. In its December 12, 2013 submittal, Maryland stated that it will consult with EPA prior to making any necessary changes to the network and will continue to quality assure the monitoring data in accordance with the requirements of 40 CFR part 58.

4. Verification of Continued Attainment

To provide for tracking of the emission levels in the Maryland portion of the Area, MDE will periodically update the emissions inventory, consisting of annual and periodic evaluations. Annual emissions updates of stationary sources, the Highway Performance Monitoring System vehicle miles travelled data reported to the Federal Highway Administration, and other growth indicators, which will be compared to the growth assumptions to determine if the projected growth and observed growth are consistent. MDE will also submit comprehensive tracking inventories to EPA every three years as required by EPA's Air Emissions Reporting Requirements (AERR) or as required by other federal regulations during the maintenance plan period.

5. Contingency Measures

The contingency plan provisions for maintenance plans are designed to promptly correct a violation of the NAAQS that occurs after redesignation. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to ensure that a state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the events that would ''trigger'' the adoption and implementation of a contingency measure(s), the contingency measure(s) that would be adopted and implemented, and the schedule indicating the time frame by which the state would adopt and implement the measure(s).

Maryland's maintenance plan outlines the procedures for the adoption and implementation of contingency measures to further reduce emissions should a violation occur. These procedures would be triggered in one of three situations: (1) When the annual actual emissions of SO_2, NO_X, or $PM_{2.5}$ exceed the attainment year inventories that are identified in Table 3; (2) when there is an annual exceedance (annual average for one year at the federal reference method monitor located in Washington County) of 15.0 $\mu g/m^3$; or, (3) When there is any violation (three year average of the annual average at the Federal reference method monitor located in Washington County) of 15.0 $\mu g/m^3$ or greater.

If any future year emissions inventory indicates that the Maryland portion of the Area's total emissions of SO_2, NO_X, or $PM_{2.5}$ exceeds the attainment year levels, MDE would first perform an audit to determine if inventory refinements are needed, including a review of whether appropriate models, control strategies, monitoring strategies, planning assumptions, industrial thoughput, and production data were used in the attainment year and future year projections. If the audit does not reconcile the emissions exceedances, MDE will implement one or more of the contingency measures identified in the plan. If an annual exceedance of 15.0 $\mu g/m^3$ occurs, MDE commits to implementing one of the contingency measures identified for additional emission reductions, and if a violation occurs, MDE commits to implementing two or more of the contingency measures of programs identified to correct the violation.

As explained in greater detail in Maryland's maintenance plan, Maryland's candidate contingency measures include the following: (1) $PM_{2.5}$ RACM determinations; (2) NO_X RACM determination; (3) Non Road diesel emission reduction strategies; (4) low sulfur home heating oil requirements; (5) alternative fuel and diesel retrofit programs for fleet vehicle operations; and, (6) wet suppression upgrade requirements for concrete manufacturing. EPA finds that the maintenance plan for the Maryland portion of the Area includes appropriate contingency measures as necessary to ensure Maryland will promptly correct any violation of the NAAQS that occurs after redesignation. Finally, the maintenance plan establishes a schedule for implementation of contingency measures if needed, and MDE has committed to full implementation of contingency measures or programs within 24 months after notification by EPA that contingency measures must be implemented or 27 months after quality assured data indicates an exceedance or violation has occurred. For all of the reasons discussed above, EPA is proposing to approve the 1997 annual $PM_{2.5}$ maintenance plan for the Maryland portion of the Area as meeting the requirements of section 175A of the CAA.

C. Transportation Conformity

Section 176(c) of the CAA requires Federal actions in nonattainment and maintenance areas to ''conform to'' the goals of SIPs. This means that such actions will not cause or contribute to violations of a NAAQS, worsen the severity of an existing violation, or delay timely attainment of any NAAQS or any interim milestone. Actions involving Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) funding or approval are subject to the transportation conformity rule (40 CFR Part 93, subpart A). Under this rule, metropolitan planning organizations (MPOs) in nonattainment and maintenance areas coordinate with state air quality and transportation agencies, EPA, and the FHWA and FTA to demonstrate that their long range transportation plans and transportation improvement programs (TIP) conform to applicable SIPs. This is typically determined by showing that estimated emissions from existing and planned highway and transit systems are less than or equal to the MVEBs contained in the SIP.

On December 12, 2013, Maryland submitted a SIP revision that contains the 2017 and 2025 $PM_{2.5}$ and NO_X onroad mobile source budgets for the Maryland portion of the Martinsburg Area. Maryland did not provide emission budgets for SO_2, VOC, and NH_3 because it concluded, consistent with the presumptions regarding these precursors in the Transportation Conformity Rule at 40 CFR 93.102(b)(2)(v), which predated and was not disturbed by the litigation on the 1997 $PM_{2.5}$ Implementation Rule, that emissions of these precursors from motor vehicles are not significant contributors to the Area's $PM_{2.5}$ air quality problem. EPA issued conformity regulations to implement the 1997 annual $PM_{2.5}$ NAAQS in July 2004 and May 2005 (69 FR 40004, July 1, 2004 and 70 FR 24280, May 6, 2005). Those actions were not part of the final rule recently remanded to EPA by the D.C. Circuit Court in *NRDC* v. *EPA,* No. 08–1250 (January 4, 2013), in which the D.C. Circuit Court remanded to EPA the 1997 $PM_{2.5}$ Implementation Rule because it concluded that EPA must implement that NAAQS pursuant to the PM-specific implementation provisions of subpart 4, rather than solely under the general provisions of subpart 1. That decision does not affect EPA's proposed approval of the MVEBs for the Maryland portion of the Martinsburg Area. The MVEBs are presented in Table 4.

TABLE 4—MVEBS FOR WASHINGTON COUNTY, MARYLAND FOR THE 1997 $PM_{2.5}$ NAAQS IN TPY

Year	$PM_{2.5}$	NO_X
2017	149.63	4,057.00
2025	93.35	2,774.63

EPA's substantive criteria for determining adequacy of MVEBs are set out in 40 CFR 93.118(e)(4). Additionally, to approve the MVEBs, EPA must complete a thorough review of the SIP, in this case the $PM_{2.5}$ maintenance plan, and conclude that with the projected level of motor vehicle and all other emissions, the SIP will achieve its overall purpose, in this case providing for maintenance of the 1997 annual $PM_{2.5}$ NAAQS. EPA's process for determining adequacy of a MVEB consists of three basic steps: (1) Providing public notification of a SIP submission; (2) providing the public the opportunity to comment on the MVEB during a public comment period; and, (3) EPA taking action on the MVEB.

On February 12, 2014, EPA initiated an adequacy review of the MVEBs for the 1997 annual $PM_{2.5}$ NAAQS that Maryland included in its redesignation request submittal. As such, a notice of the submission of these MVEBs were posted on the adequacy Web site (*http://www.epa.gov/otaq/stateresources/transconf/currsips.htm*). The public comment period closed on March 14, 2014. There were no public comments received. EPA has reviewed the MVEBs and found them consistent with the maintenance plan and found that the budgets meet the criteria for adequacy and approval. EPA published a Notice of Adequacy in the **Federal Register** on May 7, 2014 (79 FR 26246). Therefore, EPA is proposing to approve the 2017 and 2025 $PM_{2.5}$ and NO_X MVEBs for Washington County for transportation conformity purposes. Additional information pertaining to the review of the MVEBs can be found in the TSD dated April 4, 2014, available in the docket for this proposed rulemaking action.

VI. Proposed Actions

EPA is proposing to approve the redesignation of the Maryland portion of the Martinsburg Area from nonattainment to attainment for the 1997 annual $PM_{2.5}$ NAAQS. The monitoring data demonstrates that the Martinsburg Area has attained the 1997 annual $PM_{2.5}$ NAAQS and, for reasons discussed in this proposal, that it will continue to attain the standard. EPA is also proposing to approve the maintenance plan for the Maryland portion of the Area submitted on December 12, 2013 as a revision to the Maryland SIP because it meets the requirements of section 175A of the CAA as described previously in this rulemaking notice. Final approval of this redesignation request would change the designation of the Maryland portion of the Martinsburg Area from nonattainment to attainment, as found at 40 CFR part 81, for the 1997 annual $PM_{2.5}$ NAAQS, and would incorporate into the Maryland SIP the maintenance plan ensuring continued attainment of the 1997 annual $PM_{2.5}$ NAAQS in the Area for 10 years after redesignation. Furthermore, EPA is proposing to approve the 2017 and 2025 $PM_{2.5}$ and NO_X MVEBs submitted by Maryland for Washington County for transportation conformity purposes. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

VII. Statutory and Executive Order Reviews

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

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

In addition, this rule proposing to approve Maryland's redesignation request, maintenance plan, and MVEBs for transportation conformity purposes for the Maryland portion of the Area for the 1997 annual $PM_{2.5}$ NAAQS does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000) because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

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

Dated: August 6, 2014.

William C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2014–19869 Filed 8–20–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RIN 0648–BC34

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod Pot Gear Fishing Closure in the Pribilof Islands Habitat Conservation Zone in the Bering Sea and Rebuilding Pribilof Islands Blue King Crab

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of fishery management plan amendments; request for comments.

SUMMARY: The North Pacific Fishery Management Council has submitted Amendment 103 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) and Amendment 43 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (Crab FMP). If approved, Amendment 103 would close year-round the Pribilof Islands Habitat Conservation Zone (PIHCZ) to directed fishing for Pacific cod with pot gear. Prohibiting directed fishing for Pacific cod with pot gear in the PIHCZ would reduce the bycatch of Pribilof Islands blue king crab (PIBKC), prevent overfishing, and support rebuilding of the PIBKC stock. If approved, Amendment 43 would amend the Crab FMP to revise the rebuilding plan for PIBKC. These actions are intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMPs, and other applicable law. Comments from the public are encouraged.

DATES: Comments on the amendment must be received on or before 1700 hours, Alaska local time (A.l.t.), October 20, 2014.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2012–0141, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2012-0141,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

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), 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.

Electronic copies of Amendment 103 to the BSAI FMP, Amendment 43 to the Crab FMP, the Environmental Assessment (EA), and the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) prepared for this proposed action are available from *www.regulations.gov* or from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Sarah Ellgen, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the Bering Sea and Aleutian Islands Management Area (BSAI) groundfish fisheries in the exclusive economic zone off Alaska under the BSAI FMP. The Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (Crab FMP) establishes a State and Federal cooperative management regime that defers crab fisheries management to the State of Alaska with Federal oversight. The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMPs appear at 50 CFR parts 600, 679, and 680. State regulations for managing the BSAI king and Tanner crab fisheries are subject to the provisions of the Crab FMP, including its goals and objectives, the Magnuson-Stevens Act, and other applicable Federal laws.

The Magnuson-Stevens Act requires that each regional fishery management council submit any FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP amendment, immediately publish a document in the **Federal Register** announcing that the amendment is available for public review and comment. This document announces that proposed Amendment 103 to the BSAI FMP and proposed Amendment 43 to the Crab FMP are available for public review and comment.

If approved, Amendment 103 to the BSAI FMP would revise the fishing prohibition for the PIHCZ (Figure 1) to prohibit directed fishing for Pacific cod with pot gear. If approved, Amendment 43 to the Crab FMP would revise the rebuilding plan for the PIBKC.

Background

Blue king crabs are found in isolated populations and do not exist uniformly across the Bering Sea. NMFS and the Alaska Department of Fish and Game (ADF&G) manage these isolated populations as distinct stocks where they occur. The PIBKC stock occurs around the islands of Saint Paul and Saint George in the Bering Sea. The PIBKC fishery was first opened in 1973. Total biomass and abundance peaked in the early 1980s. Over the last 20 years, the PIBKC stock abundance decreased relative to its peak abundance, and NMFS and ADF&G have implemented a number of increasingly conservative management measures to limit potentially adverse fishery effects on the stock.

Since 1999, as part of the joint management of the crab stocks under the Crab FMP, the ADF&G has closed the PIBKC fishery and the Pribilof Islands red king crab fishery to minimize the bycatch of PIBKC in that fishery. On an annual basis, ADF&G also closes specific State statistical areas where PIBKC are known to occur during the Bristol Bay red king crab, snow crab, and Tanner crab fisheries to minimize PIBKC bycatch in those fisheries.

In 1995, NMFS implemented Amendment 21a to the BSAI FMP to establish a trawl gear closure in the PIHCZ, to protect blue king crab (60 FR 4110, January 20, 1995). The PIHCZ was established to protect a majority of the crab habitat in the Pribilof Islands area based on the distribution and habitat of the blue king crab in the NMFS annual trawl surveys and on observer data.

The BSAI FMP and implementing regulations at § 679.21 require that the incidental catch of PIBKC as a prohibited species must be avoided while fishing for groundfish. When PIBKC is caught in groundfish fisheries, it is known as bycatch and must be immediately returned to sea with a minimum of injury. In addition, regulations at § 679.7 prohibit PIBKC bycatch in groundfish fisheries from being sold or kept for personal use.

On September 23, 2002, the Secretary of Commerce notified the Council that the PIBKC stock biomass was below its minimum stock size threshold and was overfished. Rebuilding overfished stocks is required by section 304 the Magnuson-Stevens Act. A rebuilding plan was implemented in 2004 that included a provision that prohibited directed fishing on PIBKC until the stock was rebuilt (69 FR 17651, April 5,

2004). This Federal regulatory prohibition mirrored the directed fishing closure already established by ADF&G in 1999. The rebuilding plan estimated that the stock had a 50 percent probability to be rebuilt within 10 years, by 2014, in compliance with section 304(e)(4)(A)(ii) of the Magnuson-Stevens Act.

Due to chronic low abundance, this stock remains overfished despite the measures to minimize catch of blue king crab. The cause of the continued low PIBKC stock abundance and failure to recover is not well understood. Information included in the EA (see **ADDRESSES**) and Stock Assessment and Fishery Evaluation (SAFE) reports suggest that environmental conditions such as changing ocean currents, changing water temperatures, and changing spatial distributions among king crab stocks may contribute to the failure of this stock to recover. While there are no apparent physical barriers to adult dispersal, crab larval dispersal may be affected by local oceanography, which may in turn affect recruitment of the PIBKC stock (see Table 4–4 of the EA). Environmental conditions may also play a role in female crab reproduction and growth; however this relationship is poorly understood (Section 5 of the EA).

NMFS notified the Council on September 29, 2009, that the current rebuilding plan for PIBKC was not achieving adequate progress to rebuild the stock by 2014. To comply with section 304(e)(7) of the Magnuson-Stevens Act, the Council recommended further conservation and management measures in Amendment 103 to reduce bycatch in groundfish fisheries: the primary source of fishing mortality for PIBKC. The Council also recommended Amendment 43 to revise to the rebuilding plan in the Crab FMP.

Proposed Amendment 103 to the BSAI FMP

Amendment 103 to the BSAI FMP, and the proposed implementing regulations, would close year-round the PIHCZ to directed fishing for Pacific cod with pot gear to minimize bycatch of PIBKC in groundfish fisheries and prevent overfishing. The term ''directed fishing'' is defined in the groundfish fisheries regulation at § 679.2.

Federal fisheries management is required to be consistent with the ten National Standards in the Magnuson-Stevens Act (16 U.S.C. 1851). Amendment 103 addresses primarily two national standards under the Magnuson-Stevens Act. The first standard is National Standard 1, which requires that ''Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the U.S. fishing industry.'' The second standard is National Standard 9, which requires that ''Conservation and management measures shall, to the extent practicable, (a) minimize bycatch and (b) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.''

Amendment 103 would be consistent with National Standard 1 by preventing overfishing of PIBKC while allowing the Pacific cod pot allocation to be fully harvested in the BSAI. Bycatch of PIBKC in all groundfish fisheries is below the PIBKC overfishing level; however, groundfish fisheries catch of PIBKC has the potential to exceed the annual PIBKC overfishing level. Therefore, the Council recommended additional conservation and management measures to further minimize bycatch and prevent overfishing with the goal to rebuild PIBKC.

Amendment 103 would also be consistent with National Standard 9 by minimizing bycatch to the extent practicable. The Council recommended closing the PIHCZ to directed fishing for Pacific cod with pot gear based primarily on the high observed rate of PIBKC bycatch in the PIHCZ relative to areas outside of the PIHCZ, and the high observed rate of PIBKC bycatch within the PIHCZ in the directed Pacific cod pot gear fishery relative to other groundfish fisheries occurring within the PIHCZ.

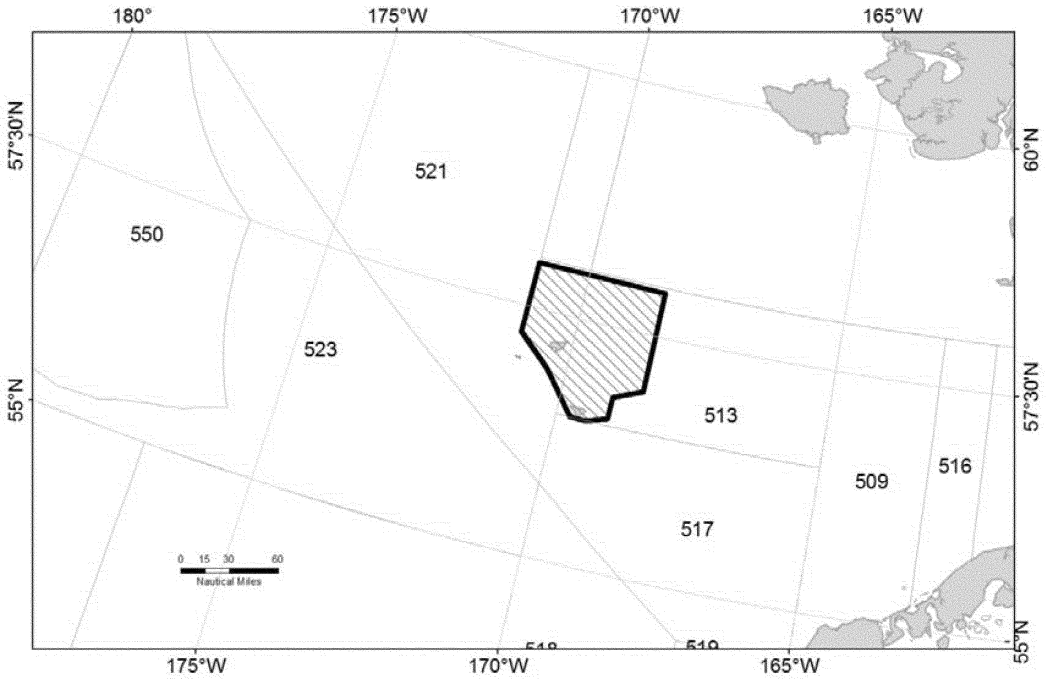
The RIR/IRFA prepared for this action indicates that under Amendment 103 the catch of Pacific cod by pot gear would not be reduced, and the Pacific cod pot fisheries would be able to fully harvest their annual allocation. The RIR/IRFA suggests that fairly high Pacific cod catch by vessels using pot gear that occurs within the PIHCZ could be effectively harvested outside of the boundary of the PIHCZ with limited potential for additional costs on the affected fishery participants. (See Section 1.4.2 of the RIR/IRFA for additional detail).

Pot gear has the highest observed bycatch rates of PIBKC across all gear types from 2005 to 2011. The 2005 through 2011 reference period uses the best available information on PIBKC bycatch rates by groundfish fisheries. The average PIBKC bycatch rate observed for pot gear for this time period in the entire PIHCZ was 0.052 crab per metric ton. The areas located to the northeast and to the east of St. Paul Island, within the PIHCZ, had the highest and second-highest PIBKC bycatch rates in the BSAI, respectively. Nearly all of the observed PIBKC bycatch was within the PIHCZ. Thus a closure of the PIHCZ to pot gear would close the area with the highest observed bycatch rate of PIBKC. The next highest PIBKC bycatch rates were observed in the hook-and-line Pacific cod fishery in the PIHCZ with an average rate of 0.0176 crab per metric ton from 2005 to 2011, a rate of roughly one-third of that observed in the Pacific cod pot fishery.

Trawl gear is currently prohibited within the PIHCZ and does not contribute to PIBKC bycatch within the PIHCZ. Hook-and-line and pot fisheries within the PIHCZ for groundfish species other than Pacific cod do not comprise more than a minimal amount of PIBKC bycatch. Extending the closure in the PIHCZ beyond the trawl and Pacific cod pot gear fisheries was not practicable based on the much lower observed rate of PIBKC bycatch in the PIHCZ for those groundfish fisheries and the minimal impact of those additional closures on PIBKC stock abundance. See Section 4.5.5 of the EA for additional detail.

The Council considered a range of alternative closure areas to reduce the bycatch of PIBKC. Ultimately, the Council recommended closing the PIHCZ to directed fishing for Pacific cod with pot gear based on: 1) the high rate of PIBKC bycatch in the PIHCZ relative to other areas outside of the PIHCZ; 2) the high concentration of PIBKC in the PIHCZ; 3) the occurrence of known PIBKC habitat within the PIHCZ; 4) the high rate of PIBKC bycatch in the Pacific cod pot fishery relative to other groundfish fisheries; and 5) the limited impact the Pacific cod pot gear closure in the PIHCZ would have on the Pacific cod pot fishery relative to other closures in other groundfish fisheries. See Section 2.9 of the EA for additional detail of the alternatives considered and not selected.

Figure 1. Pribilof Islands Habitat Conservation Zone



Proposed Amendment 43 to the Crab FMP

The current rebuilding plan in the Crab FMP for PIBKC describes measures taken to reduce mortality to PIBKC to support rebuilding the stock, including actions taken under the BSAI FMP. With the implementation of Amendment 103 to the BSAI FMP, all fishery management measures practicable have been taken to greatly eliminate PIBKC catch and protect PIBKC habitat. These measures are intended to ensure that the rebuilding time period is as short as possible in compliance with section 304(e)(4)(A) of the Magnuson-Stevens Act. Amendment 43 to the Crab FMP would amend the current rebuilding plan and incorporate the new information available on the rebuilding time period that takes into account the status and biology of PIBKC and environmental conditions.

Based on the best available information on the biology of the stock and environmental conditions, NMFS estimates that the time period to rebuild the stock will exceed 10 years, as allowed under section 304(e)(4)(A)(ii) of the Magnuson-Stevens Act (see Section 4.5.2 of the EA for more information). The causes of the stock decline are thought to be predominantly due to environmental changes that inhibit blue king crab reproduction. For this stock to rebuild, the stock would likely require multiple years of above average recruitment and/or a change in environmental conditions to increase larval productivity around the Pribilof Islands. It is not possible to predict future recruitment success; however, changes in stock abundance are assessed annually in the SAFE report.

NMFS developed a draft stock assessment model that predicted that the PIBKC stock may be rebuilt in 50 years. However, NMFS does not have confidence in these model results. The low numbers of PIBKC encountered in biomass surveys and the poor ability to predict recruitment results in high imprecision in the projected biomass. The model imprecision, coupled with poorly understood environmental influences on the blue king crab stock, did not lead to high confidence in biomass projections during the 50-year period. As a result, NMFS is unable to predict whether the PIBKC stock can be rebuilt in the foreseeable future.

In addition, the draft model results showed no statistically significant difference in the rebuilding timeframe under any of the bycatch reduction scenarios. While NMFS could not determine whether reducing bycatch would alter rebuilding timeframes using the stock assessment model, NMFS and the Council are proposing Amendment 103 and the proposed rule to further minimize bycatch.

Public Comments

NMFS is soliciting public comments on the proposed FMP amendments through October 20, 2014. A proposed rule that would implement Amendment 103 to the BSAI FMP will be published in the **Federal Register** for public comment at a later date, following NMFS' evaluation pursuant to the Magnuson-Stevens Act. Public comments on the proposed rule must be received by the end of the comment period on Amendment 103 to the BSAI FMP in order to be considered in the approval/disapproval decision on the amendment. All comments received on the amendments by the end of the comment period, whether specifically directed to the amendments or to the proposed rule for Amendment 103, will be considered in the approval/disapproval decision. Comments received after that date will not be considered in the approval/disapproval decision on the amendments. To be considered, comments must be received—not just postmarked or otherwise transmitted—by 1700 hours, A.l.t., on the last day of the comment period (See **DATES** and **ADDRESSES**).

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

Dated: August 18, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–19839 Filed 8–20–14; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 79, No. 162
Thursday, August 21, 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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2014–0073]

Notice of Request for Extension of Approval of an Information Collection; Lacey Act Declaration Requirement; Plants and Plant Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection required by the Lacey Act for the importation of certain plants and plant products.

DATES: We will consider all comments that we receive on or before October 20, 2014.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0073.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2014–0073, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0073* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the Lacey Act declaration requirements for plants and plant products, contact Mr. Gary Lougee, Lacey Act Program Specialist, CEC, RPM, PPQ, APHIS, 4700 River Road Unit 150, Riverdale, MD 20737; (301) 851–2229. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION:

Title: Lacey Act Declaration Requirement; Plants and Plant Products.

OMB Control Number: 0579–0349.

Type of Request: Extension of approval of an information collection.

Abstract: The Lacey Act, as amended, makes it unlawful to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any plant, with some limited exceptions, taken, possessed, transported, or sold in violation of the laws of the United States, a State, an Indian tribe, or any foreign law that protects plants. The Act also makes it unlawful to make or submit any false record, account, or label for, or any false identification of, any plant covered by the Act.

In addition, section 3 of the Act makes it unlawful to import certain plants and plant products without an import declaration. The declaration must contain, among other things, the scientific name of the plant, value of the importation, quantity of the plant, and name of the country in which the plant was harvested. For paper and paperboard products with recycled plant content, the importer is not required to specify the species or country of harvest with respect to the recycled plant product component, but is required to provide the average percentage of recycled content. If the product also contains non-recycled plant materials, the basic declaration requirements still apply to that component of the product imported.

In addition to the declaration, there is a supplemental form that must be completed if additional space is needed to declare additional plants and plant products. Also, records of the import declaration and supplemental form must be retained for at least 5 years.

Since the last extension of approval for this information collection, APHIS has decreased the estimated annual number of respondents from 20,352 to 17,140. However, while the number of respondents has decreased, there has been an overall increase in the burden estimates due to an increase in the number declarations completed per respondent.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.4840 hours per response.

Respondents: Importers of certain plants and plant products.

Estimated annual number of respondents: 17,140.

Estimated annual number of responses per respondent: 30.375.

Estimated annual number of responses: 520,629.

Estimated total annual burden on respondents: 252,019 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 18th day of August 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–19887 Filed 8–20–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Generic Information Collection Clearance for Large-Scale Collaborative Landscape Restoration Projects

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the proposed new information collection, *Generic Information Collection Clearance for Large-Scale Collaborative Landscape Restoration Projects.*

Participating Agencies

The following Federal land management agencies are included:

- *Department of Agriculture:* Forest Service, lead agency;
- *Department of the Interior:* Bureau of Land Management

DATES: Comments must be received in writing on or before October 20, 2014 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Sandy Mack, Southwestern Crown Collaborative Liaison Officer, Fort Missoula 24, Missoula, MT 59804. Comments also may be submitted by email to: *spmack@fs.fed.us.*

Comments submitted in response to this notice may be made available to the public through relevant Web sites and upon request. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

The public may inspect the draft supporting statement and/or comments received at Fort Missoula 24, Missoula, MT, during normal business hours. Visitors are encouraged to call ahead to 406–544–4592 to facilitate entry to the building. The public may request an electronic copy of the draft supporting statement and/or any comments received be sent via return email. Requests should be emailed to *spmack@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Sandy Mack, 406–544–4592. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Generic Information Collection Clearance for Large-Scale Landscape Restoration Collaborative Projects.

OMB Number: 0596—NEW.

Type of Request: New.

Abstract:. In response to two recent Federal Actions, it has become necessary to request a Generic Information Collection Request (ICR) in order to collect information from stakeholders who are either involved with or live or work in and around, large-scale collaborative landscape restoration projects.

Large-scale collaborative landscape restoration projects are projects where interested parties, such as neighboring land owners, State, local, and Tribal governments, businesses, and nonprofit organizations work with a Federal government agency to find common ground pertaining to geographically extensive land management, often across multiple jurisdictions. Examples of a large-scale collaborative project include, but are not limited to, projects performed under the authority of the Forest Landscape Restoration Act of 2009 and during the development of Land Management Plans. An example of a Forest Landscape Restoration Act project is the Southwestern Crown Collaborative (SWCC), which is one of the 23 current Collaborative Forest Landscape Restoration (CFLR) projects across the nation. In the SWCC collaborators and other partners work with the Forest Service to implement restoration work and multi-party monitoring of the landscape restoration treatments across four counties and three National Forests.

The Forest Landscape Restoration Act (FLRA) of 2009 (16 U.S.C. 7303), which enabled the Collaborative Landscape Restoration program, requires the USDA Forest Service (USFS) to monitor socio-economic impacts of collaborative restoration activities within the project site. The purpose of contacting stakeholders is to get their input and feedback on the land management practices and the associated socio-economic impacts.

Development of Land Management Plans (LMP) pursuant to the National Forest Management Act of 1976 and the 2012 Planning Rule (36 CFR Part 219) requires a transparent, collaborative, and informed planning process. The Bureau of Land Management (BLM) and the USFS collaboration on large-scale projects also extends beyond CFLR and Management Plans. Gaining information from individuals who work or live in the geographic area of collaborative large-scale projects provides valuable information to partners and land management decision makers.

To ensure the Agency is informed about the opinions of participants of collaborative processes and public members living in or around large-scale collaborative projects, the Forest Service and the BLM seek to obtain OMB approval of a generic clearance to collect both qualitative and quantitative feedback from stakeholders of large-scale landscape restoration projects, monitoring activities, and land management planning.

Information will be collected from stakeholders of large-scale Federal landscape projects, such as State, local, and Tribal government representatives, community leaders, non-profit organizations, interest groups, collaborators, partners, residents, local businesses, and any other concerned parties.

The information will be collected through a variety of ways, including but not limited to:

- Census surveys of partners/participants of a collaborative project.
- Mail-in, on-line, and hard copy in person surveys.
- Stakeholder interviews.
- Stakeholder comment cards/complaint forms.
- Small discussion groups.
- Focus groups.
- Cognitive laboratory studies, such as those used to refine survey questions or assess usability of a Web site.
- Qualitative stakeholder surveys.
- Quantitative stakeholder surveys.
- In-person observation testing (for example, Web site or software usability tests).
- Targeted requests for information.
- Telephonic and in-person interviews.
- Other innovative communication strategies designed to facilitate voluntary provision of information by

the public with minimal burden that may be approved by OMB.

Results from information gathered pursuant to this Generic ICR will assist program managers in evaluating the positive and negative social and economic effects of collaborative project implementation. Results will also inform the adaptive management process required by the FLRA; results of these efforts will assist USFS and BLM forest planners in meeting the collaborative and public input requirement of the 2012 Forest Planning Rule. Through the collection of this information, managers and planners will obtain valuable information to inform future decisions. Agency public affairs staff, social scientists, and economists may also use this information, and Agency, academic, and other researchers may use or cite the results or data collected in publications.

Without the collection of this information, the USFS and/or the BLM will be unable to determine whether it is meeting the requirements of the Forest Landscape Restoration Act, nor if they are fully incorporating partner and public input into forest project, implementation, monitoring and/or planning processes as required by law.

Type of Respondents: Stakeholders of large-scale landscape restoration projects, such as neighboring land owners, State, local, and Tribal government representatives, businesses, interest groups, and nonprofit organizations.

Estimated Annual Number of Respondents: 48,000.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden hours on Respondents: 38,000 hours.

Comment is Invited:

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden 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 to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request toward Office of Management and Budget approval.

Dated: August 12, 2014.

Gregory C. Smith,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2014–19428 Filed 8–20–14; 8:45 am]

BILLING CODE 3411–15–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meetings

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meetings.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) plans to hold its regular committee and Board meetings in Washington, DC, Monday through Wednesday, September 8–10, 2014 at the times and location listed below.

DATES: The schedule of events is as follows:

Monday, September 8, 2014

10:00–Noon Ad Hoc Committee Meetings: Closed to Public
1:30–2:45 p.m. Technical Programs Committee
3:00–4:00 Ad Hoc Committee Meetings: Closed to Public

Tuesday, September 9, 2014

9:30–10:30 a.m. Ad Hoc Committee on Frontier Issues
10:30–Noon Planning and Evaluation Committee
1:30–2:00 p.m. Budget Committee

Wednesday, September 10, 2014

9:30–Noon Ad Hoc Committees: Closed to Public
1:30–3:00 p.m. Board Meeting

ADDRESSES: Meetings will be held at the Access Board Conference Room, 1331 F Street NW., Suite 800, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact David Capozzi, Executive Director, (202) 272–0010 (voice); (202) 272–0054 (TTY).

SUPPLEMENTARY INFORMATION: At the Board meeting scheduled on the afternoon of Wednesday, September 10, 2014, the Access Board will consider the following agenda items:

- Approval of the draft July 9, 2014 meeting minutes (vote)
- Ad Hoc Committee Reports: Self-Service Transaction Machines; Information and Communications Technologies; Accessible Design in Education; Public Rights-of-Way and Shared Use Paths; Passenger Vessels; Frontier Issues; Transportation Vehicles; and Medical Diagnostic Equipment
- Budget Committee
- Technical Programs Committee
- Planning and Evaluation Committee
- Election Assistance Commission Report
- Executive Director's Report
- Public Comment, Open Topics

All meetings are accessible to persons with disabilities. An assistive listening system, Communication Access Realtime Translation (CART), and sign language interpreters will be available at the Board meeting and committee meetings. Persons attending Board meetings are requested to refrain from using perfume, cologne, and other fragrances for the comfort of other participants (see *www.access-board.gov/the-board/policies/fragrance-free-environment* for more information).

David M. Capozzi,

Executive Director.

[FR Doc. 2014–19867 Filed 8–20–14; 8:45 am]

BILLING CODE 8150–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–501]

Welded Carbon Steel Standard Pipe and Tube Products From Turkey: Partial Rescission of Antidumping Duty Administrative Review; 2013–2014

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

SUMMARY: The Department of Commerce (the Department) is partially rescinding the administrative review of the antidumping duty order on welded carbon steel standard pipe and tube products from Turkey covering the period of review (POR) May 1, 2013, through April 30, 2014.

DATES: *Effective Date:* August 21, 2014.

FOR FURTHER INFORMATION CONTACT: Steve Bezirganian, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1131.

Background

On May 1, 2014, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on welded carbon steel standard pipe and tube products from Turkey for the POR.[1] On June 27, 2014, the Department published in the **Federal Register** a notice of initiation of an administrative review of the antidumping duty order on welded carbon steel standard pipe and tube products from Turkey covering the POR.[2] The review covers six companies: Borusan Group; Borusan Istikbal Ticaret T.A.S.; Borusan Mannesmann Boru Sanayi ve Ticaret A.S.; ERBOSAN Erciyas Boru Sanayi ve Ticaret A.S.; Tosyali Dis Ticaret A.S.; and Toscelik Profil ve Sac Endustrisi.[3] Wheatland Tube Company (Petitioner) requested a review of all six companies.[4] Borusan Istikbal Ticaret T.A.S. and Borusan Mannesmann Boru Sanayi ve Ticaret A.S. requested a review of themselves.[5]

On July 18, 2014, Petitioner withdrew its request for an administrative review of Borusan Group.[6]

Partial Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. Petitioner withdrew its review request with respect to Borusan Group within the 90-day deadline and, therefore, the withdrawal request is timely. Accordingly, in accordance with 19 CFR 351.213(d)(1), we are rescinding this review with respect to Borusan Group. However, because the relevant parties have not withdrawn their requests for review of the other companies for which a review has been initiated, the instant review will continue with respect to those companies.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. For Borusan Group, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after the date of publication of this notice in the **Federal Register**.

Notification to Importers

This notice serves as the only 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 may result in the presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice also serves as the only 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 terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751 and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: August 13, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–19875 Filed 8–20–14; 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 24670, 24671 (May 1, 2014).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 79 FR 36462, 36467 (June 27, 2014).

[3] *Id.*

[4] *See* the June 2, 2014, letter from Petitioner to the Secretary of Commerce entitled ''Circular Welded Carbon Steel Pipes And Tubes From Turkey: Request For Administrative Review—Spelling Correction for Toscelik Profil ve. Sac Endustrisi A.S.''

[5] *See* the June 2, 2014, letter from those companies to the Secretary of Commerce entitled ''Circular Welded Carbon Steel Pipes and Tubes from Turkey, Case No. A–489–501: Request for Antidumping Duty Administrative Review.''

[6] *See* the July 18, 2014, letter from Petitioner to the Secretary of Commerce entitled ''Circular Welded Carbon Steel Pipes And Tubes From Turkey: Partial Withdrawal of Request for Administrative Review.''

DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–811]

Purified Carboxymethylcellulose From the Netherlands: Preliminary Results of Antidumping Duty Administrative Review; 2012–2013

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on purified carboxymethylcellulose (purified CMC) from the Netherlands. The period of review (POR) is July 1, 2012, through June 30, 2013. The review covers one producer/exporter of the subject merchandise, Akzo Nobel Functional Chemicals, B.V. (Akzo Nobel).

We preliminarily determine that sales of subject merchandise by Akzo Nobel were not made at less than normal value during the POR. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* August 21, 2014.

FOR FURTHER INFORMATION CONTACT: Ericka Ukrow or Angelica Mendoza, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0405 or (202) 482–3019, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise covered by the order is all purified CMC. The merchandise subject to the order is currently classified in the Harmonized Tariff Schedule of the United States at subheading 3912.31.00. This tariff classification is provided for convenience and Customs purposes; however, the written description of the scope of the order is dispositive. A full description of the scope of the order is contained in the memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, titled ''Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Purified Carboxymethylcellulose from the Netherlands'' (Preliminary Decision Memorandum), which is issued

concurrent with and hereby adopted by this notice.

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). Access to 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 on the Internet at *http://enforcement.trade.gov/frn/index.html.* A list of topics discussed in the Preliminary Decision Memorandum is attached as an Appendix to this notice. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Methodology

The Department has conducted this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). Constructed export price (CEP) is calculated in accordance with section 772 of the Act. Normal value 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.

Preliminary Results of Review

We preliminarily determine that, for the period July 1, 2012, through June 30, 2013, the following weighted-average dumping margin exists:

Manufacturer/exporter	Weighted-average margin (percent)
Akzo Nobel Functional Chemicals B.V	0.00

Disclosure and Public Comment

The Department intends to disclose to interested parties to the proceeding any calculations performed in connection with these preliminary results of review within five days after the date of publication of this notice.[1] Interested parties may submit case briefs to the Department in response to these preliminary results no later than 30 days after the publication of these preliminary results.[2] 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.[3] Parties who submit arguments in this proceeding are requested to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[4] Executive summaries should be limited to five pages total, including footnotes. Case and rebuttal briefs should be filed using IA ACCESS.[5] In order to be properly filed, IA ACCESS must successfully receive an electronically-filed document in its entirety by 5 p.m. Eastern Time. Case and rebuttal briefs must be served on interested parties.[6]

Within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments raised in the case and rebuttal briefs.[7] Unless the Department specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs.[8] Written argument and hearing requests should be electronically submitted to the Department via IA ACCESS.[9] The Department's electronic records system, IA ACCESS, must successfully receive an electronically-filed document in its entirety by 5:00 p.m. Eastern Daylight Time within 30 days after the date of publication of this notice.[10] Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. Parties will be notified of the time and location of the hearing.

The Department intends to publish the final results of this administrative review, including the results of its analysis of issues addressed in any case or rebuttal brief, no later than 120 days after publication of the preliminary results, unless extended.[11]

Assessment Rates

Upon completion of this administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries.[12] If Akzo Nobel's weighted-average dumping margin is not zero or *de minimis* in the final results of this review, we will calculate importer-specific assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for an importer's examined sales and the total entered value of such sales in accordance with 19 CFR 351.212(b)(1). If Akzo Nobel's weighted-average dumping margin continues to be zero or *de minimis* in the final results of review, we will instruct CBP not to assess duties on any of its entries in accordance with the *Final Modification for Reviews, i.e.,* ''{w}here the weighted-average margin of dumping for the exporter is determined to be zero or *de minimis*, no antidumping duties will be assessed.'' [13] The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

We intend to issue liquidation instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Akzo Nobel will be that established in the final results of this administrative review (except, if the rate is zero or *de minimis,* no cash deposit will be required); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or in the less-than-fair-value investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be the all-others rate of 14.57 percent, which is the all-others rate established in the investigation.[14] These cash deposit

[1] *See* 19 CFR 351.224(b).

[2] *See* 19 CFR 351.309(c)(1)(ii).

[3] *See* 19 CFR 351.309(d)(1) and (2).

[4] *See* 19 CFR 351.309(c)(2) and (d)(2).

[5] *See generally* 19 CFR 351.303.

[6] *See* 19 CFR 351.303(f).

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

[8] *See* 19 CFR 351.310(d)(1).

[9] *See generally* 19 CFR 351.303.

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

[11] *See* section 751(a)(3)(A) of the Act; 19 CFR 351.213(h).

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

[13] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101, 8102 (February 14, 2012) (*Final Modification for Reviews*).

[14] *Id.*

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

Notification to Importers

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

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h)(1).

Dated: August 14, 2014.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I—List of Topics Discussed in the Preliminary Decision Memorandum

1. Scope of the Order
2. Comparisons to Normal Value
   A. Determination of Comparison Method
   B. Results of the Differential Pricing Analysis
3. Product Comparisons
4. Date of Sale
5. Constructed Export Price
6. Normal Value
   A. Home Market Viability
   B. Level of Trade
   C. Cost of Production
   1. Calculation of Cost of Production
   2. Test of Comparison Market Sales Prices
   3. Results of the Cost of Production Test
   D. Calculation of Normal Value Based on Comparison Market Prices
7. Currency Conversion
8. Recommendation

[FR Doc. 2014–19871 Filed 8–20–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–837]

Polyethylene Terephthalate Film, Sheet, and Strip From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2012–2013

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on polyethylene terephthalate film, sheet, and strip (PET Film) from Taiwan. The period of review (POR) is July 1, 2012, through June 30, 2013. On January 8, 2014, the Department published a notice rescinding the review with respect to Shinkong Materials Technology Corporation.[1] This review covers the remaining respondent Nan Ya Plastics Corporation (Nan Ya), a producer and exporter of PET Film from Taiwan. The Department preliminarily determines that sales of subject merchandise have been made below normal value (NV) by Nan Ya. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* August 21, 2014.

FOR FURTHER INFORMATION CONTACT: Toni Page at (202) 482–1398; AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise subject to the order is PET Film. The PET Film subject to the order is currently classifiable under subheading 3920.62.00.90 of the Harmonized Tariff Schedule of the United States. A full description of the scope of the order is contained in the memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, ''Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan; 2012–2013 Administrative Review'' (Preliminary Decision Memorandum), which is hereby adopted by this notice.

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). Access to 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 on the Internet at *http://enforcement.trade.gov/frn/index.html.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Methodology

The Department conducted this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). Export price is calculated in accordance with section 772 of the Act. 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.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following weighted-average dumping margin for the period July 1, 2012, through June 30, 2013.

Manufacturer/exporter	Weighted-average dumping margin (percent)
Nan Ya Plastics Corporation	1.56

Disclosure and Public Comment

The Department intends to disclose to interested parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice.[2] Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs no later than 30 days after the date of publication of this notice.[3] Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[4] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[5] Case and rebuttal briefs should be filed using IA ACCESS.[6] In order to be properly filed, IA ACCESS must successfully receive an electronically-filed document in its entirety by 5 p.m. Eastern Time.

Pursuant to 19 CFR 351.310(c), 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, filed electronically via IA ACCESS, within 30 days after the date of publication of this

[1] *See Polyethylene Terephthalate Film From Taiwan: Partial Rescission of Antidumping Duty Administrative Review; 2012–2013,* 79 FR 1362 (January 8, 2014).

[2] *See* 19 CFR 351.224(b).

[3] *See* 19 CFR 351.309(c)(ii).

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

[5] *See* 19 CFR 351.309(c)(2) and (d)(2).

[6] *See* 19 CFR 351.303.

notice.[7] Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs.

The Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

Assessment Rates

Upon completion of the administrative review, the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries in accordance with 19 CFR 351.212(b)(1). We intend to issue instructions to CBP 15 days after the date of publication of the final results of this review.

If Nan Ya's weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.5 percent) in the final results of this review, we 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 the sales in accordance with 19 CFR 351.212(b)(1). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate calculated in the final results of this review is above *de minimis.* Where 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. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the POR produced by each respondent for which they did not know that their merchandise it sold to a reseller was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate of 2.40 percent [8] if there is no rate for the intermediate company(ies) involved in the transaction.[9]

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of PET Film from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the company under review will be the rate established in the final results of this review (except, if the rate is zero or *de minimis,* no cash deposit will be required); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters is 2.40 percent.[10] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

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

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

Dated: August 14, 2014.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Comparisons to Normal Value
5. Product Comparisons
6. Date of Sale
7. Export Price
8. Normal Value
9. Currency Conversion
10. Recommendation

[FR Doc. 2014–19872 Filed 8–20–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–845]

Sugar From Mexico: Postponement of Preliminary Determination of Antidumping Duty Investigation

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

ACTION: Notice; Sugar From Mexico: Postponement of Preliminary Determination of Antidumping Duty Investigation.

DATES: *Effective Date:* August 21, 2014.

FOR FURTHER INFORMATION CONTACT: David Lindgren, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3870.

SUPPLEMENTARY INFORMATION:

Background

On April 17, 2014, the Department of Commerce (the Department) initiated the antidumping duty (AD) investigation of sugar from Mexico.[1] Currently, the preliminary determination is due no later than September 4, 2014.

Postponement of Preliminary Determination

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.205(b)(1) require the Department to issue the preliminary determination in an AD investigation no

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

[8] *See Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Taiwan,* 67 FR 44174 (July 1, 2002), as corrected in 67 FR 46566 (July 15, 2002) (*PET Film from Taiwan Amended Final Determination*).

[9] For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[10] *See PET Film from Taiwan Amended Final Determination.*

[1] *See Sugar from Mexico: Initiation of Antidumping Duty Investigation,* 79 FR 22795 (April 24, 2014).

later than 140 days after the date on which the Department initiated the investigation. However, section 733(c)(1)(A) of the Act permits the Department to postpone making the preliminary determination until no later than 190 days after the date on which it initiated the investigation if the petitioner makes a timely request for an extension. In the instant investigation, the American Sugar Coalition and its individual members (collectively, Petitioners) made a timely request on August 11, 2014 that we postpone the preliminary AD determination.[2]

The Department finds no compelling reason to deny the request. Therefore, pursuant to section 733(c)(1)(A) of the Act, the Department is hereby postponing the due date for the preliminary AD determination to no later than 190 days after the day on which the investigation was initiated. As a result of this postponement, the deadline for completion of the preliminary determination is now October 24, 2014.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: August 14, 2014.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–19874 Filed 8–20–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD434

Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Council) and its advisory entities will hold public meetings.

DATES: The Council and its advisory entities will meet September 10–17, 2014. The Council meeting will begin on Friday, September 12, 2014 at 8 a.m., reconvening each day through Wednesday, September 17, 2014. All meetings are open to the public, except a closed session will be held at 8 a.m. on Friday, September 12 to address litigation and personnel matters. The Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: Meetings of the Council and its advisory entities will be held at the DoubleTree by Hilton Spokane City Center, 322 N Spokane Falls Ct, Spokane, WA 99201; telephone: (509) 455–9600.

Council Address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220. Instructions for attending the meeting via live stream broadcast are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Dr. Donald O. McIsaac, Executive Director; telephone: (503) 820–2280 or (866) 806–7204 toll free; or access the Council Web site, *http://www.pcouncil.org* for the current meeting location, proposed agenda, and meeting briefing materials.

SUPPLEMENTARY INFORMATION: The September 12–17, 2014 meeting of the Pacific Fishery Management Council will be streamed live on the internet. The live meeting will be broadcast daily starting at 9 a.m. Pacific Time (PT) on Friday, September 12, 2014 through Wednesday, September 17, 2014. The broadcast will end daily at 6 p.m. PT or when business for the day is complete. Only the audio portion, and portions of the presentations displayed on the screen at the Council meeting, will be broadcast. The audio portion is listen-only; you will be unable to speak to the Council via the broadcast. Join the meeting by visiting this link *http://www.joinwebinar.com,* enter the Webinar ID for this meeting, which is 143–975–167 and enter your email address as required. It is recommended that you use a computer headset as GoToMeeting allows you to listen to the meeting using your computer headset and speakers. If you do not have a headset and speakers, you may use your telephone for the audio portion of the meeting by dialing this TOLL number 1–646–307–1724 (not a toll free number); entering the phone audio access code 671–933–090; and then entering your Audio Pin which will be shown to you after joining the webinar. The webinar is broadcast in listen only mode.

The following items are on the Pacific Council agenda, but not necessarily in this order. Agenda items noted as ''(Final Action)'' refer to actions requiring the Council to transmit a proposed fishery management plan, proposed plan amendment, or proposed regulations to the Secretary of Commerce, under Sections 304 or 305 of the Magnuson-Stevens Fishery Conservation and Management Act. Additional detail on agenda items, Council action, and meeting rooms, is described in Agenda Item A.4, Proposed Council Meeting Agenda, and will be in the advance September 2014 briefing materials and posted on the Council Web site (*www.pcouncil.org*).

A. Call to Order

1. Opening Remarks
2. Roll Call
3. Executive Director's Report
4. Agenda

B. Open Comment Period

Comments on Non-Agenda Items

C. Coastal Pelagic Species Management

Pacific Sardine Harvest Fraction

D. Salmon Management

1. Salmon Methodology Review
2. Lower Columbia River Coho Harvest Matrix

E. Enforcement Issues

Tri-State Fishery Enforcement Report

F. Habitat

Current Habitat Issues

G. Highly Migratory Species Management

1. National Marine Fisheries Service Report
2. International Activities
3. Preliminary Approval of Exempted Fishing Permits for 2015 Fisheries
4. New or Routine Management Measures for 2015–2016 Fisheries

H. Ecosystem Management

Unmanaged Forage Fish Protection Initiative

I. Administrative Matters

1. Legislative Matters
2. Comments on Executive Actions
3. Albatross Avoidance Briefing
4. Fiscal Matters
5. Membership Appointments and Council Operating Procedures
6. Future Council Meeting Agenda and Workload Planning

J. Groundfish Management

1. Omnibus Regulation Change Priorities
2. Stock Assessment Planning
3. Electronic Monitoring Regulatory Process Final Preferred Alternatives and Next Steps (Final Action)
4. Consideration of Inseason Adjustments (Final Action)

[2] *See* Letter to the Department regarding ''Sugar from Mexico: Petitioners' Request to Extend the Deadline for the Preliminary Determination,'' dated August 11, 2014.

K. Pacific Halibut Management

2015 Pacific Halibut Catch Sharing Plan and Regulations

Schedule of Ancillary Meetings

Day 1—Wednesday, September 10, 2014

Scientific and Statistical Committee Economic Subcommittee—1 p.m.

Day 2—Thursday, September 11, 2014

Coastal Pelagic Species Advisory Subpanel—8 a.m.
Coastal Pelagic Species Management Team—8 a.m.
Highly Migratory Species Management Team—8 a.m.
Scientific and Statistical Committee—8 a.m.
Habitat Committee—8:30 a.m.
Legislative Committee—1 p.m.
Budget Committee—2:30 p.m.

Day 3—Friday, September 12, 2014

California State Delegation—7 a.m.
Oregon State Delegation—7 a.m.
Washington State Delegation—7 a.m.
Coastal Pelagic Species Advisory Subpanel—8 a.m.
Coastal Pelagic Species Management Team—8 a.m.
Ecosystem Advisory Subpanel—8 a.m.
Highly Migratory Species Advisory Subpanel—8 a.m.
Highly Migratory Species Management Team—8 a.m.
Scientific and Statistical Committee—8 a.m.
Groundfish Electronic Monitoring Policy Advisory Committee—10 a.m.
Enforcement Consultants—3 p.m.
Chair's Reception—6 p.m.

Day 4—Saturday, September 13, 2014

California State Delegation—7 a.m.
Oregon State Delegation—7 a.m.
Washington State Delegation—7 a.m.
Groundfish Advisory Subpanel—8 a.m.
Groundfish Management Team—8 a.m.
Highly Migratory Species Advisory Subpanel—8 a.m.
Highly Migratory Species Management Team—8 a.m.
Enforcement Consultants—Ad hoc

Day 5—Sunday, September 14, 2014

California State Delegation—7 a.m.
Oregon State Delegation—7 a.m.
Washington State Delegation—7 a.m.
Groundfish Advisory Subpanel—8 a.m.
Groundfish Management Team—8 a.m.
Enforcement Consultants—Ad hoc

Day 6—Monday, September 15, 2014

California State Delegation—7 a.m.
Oregon State Delegation—7 a.m.
Washington State Delegation— 7 a.m.
Groundfish Advisory Subpanel—8 a.m.
Groundfish Management Team—8 a.m.
Enforcement Consultants—Ad hoc

Day 7—Tuesday, September 16, 2014

California State Delegation—7 a.m.
Oregon State Delegation—7 a.m.
Washington State Delegation—7 a.m.
Groundfish Advisory Subpanel—8 a.m.
Groundfish Management Team—8 a.m.
Enforcement Consultants—Ad hoc

Day 8—Wednesday, September 17, 2014

California State Delegation—7 a.m.
Oregon State Delegation—7 a.m.
Washington State Delegation—7 a.m.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Carolyn Porter at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: August 18, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–19854 Filed 8–20–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD433

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Salmon Technical Team (STT) and Model Evaluation Workgroup (MEW) will hold a webinar, which is open to the public.

DATES: The STT and the MEW will hold the webinar on Tuesday, September, 9, 2014, from 9 a.m. to 2 p.m. Pacific Time, or when business for the day is complete.

ADDRESSES: To attend the webinar, visit *http://www.joinwebinar.com.* Enter the webinar ID, which is 712–123–263, and your name and email address (required). Once you have joined the webinar, choose either your computer's audio or select ''Use Telephone.'' If you do not select ''Use Telephone'' you will be connected to audio using your computer's microphone and speakers (VolP). It is recommended that you use a computer headset as GoToMeeting allows you to listen to the meeting using your computer headset and speakers. If you do not have a headset and speakers, you may use your telephone for the audio portion of the meeting by dialing this TOLL number 1–415–363–0079 (not a toll-free number); phone audio access code 502–677–421; audio phone pin shown after joining the webinar. System Requirements for PC-based attendees: Required: Windows® 7, Vista, or XP; for Mac®-based attendees: Required: Mac OS® X 10.5 or newer; and for mobile attendees: iPhone®, iPad®, Android™ phone or Android tablet (See the GoToMeeting Webinar Apps). You may also send an email to Ms. Sandra Krause or contact her at (503) 820–2419 for technical assistance. A listening station will also be provided at the Pacific Council office.

Council address: Pacific Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Burner, Pacific Council, telephone: (503) 820–2414.

SUPPLEMENTARY INFORMATION: The STT and MEW will discuss items on the Pacific Council's September 2014 meeting agenda. Major topics include: Salmon Methodology Review, Lower Columbia Coho Harvest Matrix, and the Unmanaged Forage Fish Protection Initiative. The STT and MEW may also address one or more of the Pacific Council's scheduled Administrative Matters. Public comments during the webinar will be received from attendees at the discretion of the STT and MEW Chairs.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of

the intent to take final action to address the emergency.

Special Accommodations

The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2425 at least 5 days prior to the meeting date.

Dated: August 18, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–19853 Filed 8–20–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD431

Marine Recreational Fisheries of the United States; Southeast Data, Assessment, and Review (SEDAR); Public Meetings

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

ACTION: Notice of Marine Recreational Information Program (MRIP) Calibration Workshop.

SUMMARY: SEDAR and NOAA Fisheries Service will convene a workshop to consider calibration methods for recent changes in methods employed by MRIP for estimating marine recreational fisheries harvest. See **SUPPLEMENTARY INFORMATION**.

DATES: The meetings will be held from 1 p.m. to 6 p.m. on September 8, 2014; 8:30 a.m. to 6 p.m. on September 9, 2014, and 8:30 a.m. to 12 p.m. on September 10, 2014. See **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The MRIP Calibration Workshop will be held at the Crowne Plaza Airport Hotel, 4831 Tanger Outlet Boulevard, North Charleston, SC 29418; telephone: (800) 503–5762 or (843) 744–4422; fax: (843) 744–4472.

SEDAR address: SEDAR, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: John Carmichael, Science and Statistics Program Manager, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; telephone: (843) 571–4366.

SUPPLEMENTARY INFORMATION: The following items will be discussed during this meeting.

1 p.m. Monday, September 8, 2014–12 p.m. Wednesday, September 10, 2014:

1. Review methods and results of MRIP Calibration Workshop I.

2. Review MRIP Pilot Study of new Access Point Angler Intercept Survey (APAIS) sampling design.

3. Review 2013–14 Coastwide Implementation of New APAIS design.

4. Review Analytical methods used to evaluate APAIS design change effects on MRIP catch statistics.

5. Review of analytical results for Gulf red snapper and selected additional species stocks.

6. Consideration of other possible analytical approaches.

7. Assessment of possible methods for calibrating pre-2013 MRIP catch statistics.

8. Testing of alternative calibration approaches.

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during this meeting. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the South Atlantic Council office, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; telephone: (843) 571–4366, at least 5 business days prior to the workshop.

Dated: August 18, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–19852 Filed 8–20–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD436

New England and Mid-Atlantic Fishery Management Councils; Public Comment

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

ACTION: Notice; request for comments.

SUMMARY: The New England and Mid-Atlantic Fishery Management Councils, in cooperation with the NMFS Greater Atlantic Regional Fisheries Office, seek public comment on a draft amendment to all the fishery management plans under their purview. The omnibus amendment would modify provisions limiting changes to vessel size and horsepower specifications in limited access fleets.

DATES: Comments must be received by September 22, 2014.

ADDRESSES: You may submit written comments by any of the following methods.

- *Email: nmfs.gar.baseline@noaa.gov.* Include in the subject line ''Comments on draft Baseline Amendment.''
- *Mail:* 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 draft Baseline Amendment.''
- *Fax:* (978) 281–9135.

Copies of the draft amendment may be obtained by contacting the NMFS Greater Atlantic Regional Fisheries Office at the above address. The documents are also available via the internet at: *www.greateratlantic.fisheries.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Melissa Hooper, Fishery Policy Analyst, (978) 281–9166.

SUPPLEMENTARY INFORMATION: Fishing vessel baseline specifications and upgrade restrictions have been used as a tool in Northeast limited access fisheries to promote conservation of fish species by limiting potential increases in the harvest capacity of the fleet. To reduce fishing mortality and fishing effort, the New England and Mid-Atlantic Fishery Management Councils have used various effort controls, such as limits on the amount of time (numbers of days-at-sea (DAS)) that can be fished, trip limits, state-by-state quota allocations, and moratoria on

issuance of new permits. Vessel upgrade restrictions were intended to control the potential increase in effort and catch that could occur if an individual vessel increased in size or horsepower and, therefore, was able to catch more fish for a given amount of effort. For example, if a vessel were able to land more fish per DAS fished because of an increased size or horsepower, it could undermine the purpose of matching the total DAS allocation to a target total allowable catch. In the case of hard quotas, a vessel's catch rate per trip could increase because of an upgrade to its size or horsepower, accelerating the rate the quota is taken and increasing the race to fish. A permit's ''baseline vessel'' was generally the vessel that was first issued the limited access permit for the fishery. The specifications of this first permitted vessel (length, horsepower, gross tonnage, and net tonnage) became the permit's ''baseline specifications'' and restrictions were placed on how much a future vessel holding the permit could deviate from these specifications. In this way, baseline specifications and upgrade restrictions limit potential future increases in harvest capacity and prevent them from undermining other management measures targeted at controlling fishing mortality. However, since the time baseline specifications were adopted, many fisheries have implemented other effort controls and annual catch limits (ACLs), which restrict effort and put a cap on total harvest. In addition, replacement and upgrade restrictions can be a costly and time-consuming administrative burden for both the industry and NMFS.

In light of these circumstances, the New England and Mid-Atlantic Fishery Management Councils, in cooperation with the NMFS Greater Atlantic Regional Fisheries Office, have developed the Omnibus Amendment to Simplify Vessel Baselines. The objective of this amendment is to eliminate certain baseline restrictions to reduce the administrative and cost burden to industry and NMFS, while maintaining the benefits to conservation and fleet diversity that baseline measures provide. This action would apply to all limited access fisheries within the Councils' jurisdiction: The Atlantic Herring Fishery Management Plan (FMP); the Atlantic Sea Scallop FMP; the Atlantic Deep-Sea Red Crab FMP; the Mackerel, Squid, and Butterfish FMP; the Monkfish FMP; the Northeast Multispecies FMP; the Summer Flounder, Scup, and Black Sea Bass FMP; the Surfclam and Ocean Quahog FMP; and the Tilefish FMP. The Baseline Amendment considers alternatives to (1) maintain the status quo baseline regulations; (2) eliminate the one-time limit on vessel upgrades; (3) eliminate gross and net tonnages from vessel baselines; and (4) eliminate both the one-time limit on vessel upgrades and tonnage specifications. Under all of the alternatives, the 10-percent limit on vessel size upgrades and 20-percent of vessel horsepower upgrades would remain.

The Councils considered adding alternatives that would make more substantial changes to baseline regulations or eliminate them entirely. However, the Councils opted to keep this action limited in scope in order to expedite its implementation. The Councils are currently discussing initiating another omnibus amendment that would consider more substantial changes for a future fishing year and where that action would fall among the Councils' priorities.

The Councils selected Alternative 4 to eliminate the restrictions on both the one-time limit on vessel upgrades and tonnage specifications as their preferred alternative in this action. NMFS and the Councils will consider all comments received on the draft baseline amendment and the alternatives for incorporation into the final document until the end of the comment period on September 22, 2014. The public will have several additional opportunities to comment on the amendment. The final amendment will be considered for approval by the Councils at public meetings in late 2014. Once submitted to NMFS, the final Baseline Amendment will be made available for public review and comment, and regulations will be proposed for review and comment.

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

Dated: August 18, 2014

Alan D. Risenhoover,

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

[FR Doc. 2014–19843 Filed 8–20–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD442

Taking and Importing Marine Mammals: Taking Marine Mammals Incidental to Navy Operations of Surveillance Towed Array Sensor System Low Frequency Active Sonar

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

ACTION: Notice; issuance of four letters of authorization.

SUMMARY: In accordance with regulations issued under the Marine Mammal Protection Act, as amended, we hereby give notification that we, the National Marine Fisheries Service (NMFS), have issued four 1-year Letters of Authorization (Authorizations) to the U.S. Navy (Navy) to take marine mammals by harassment incidental to their military readiness activities associated with the routine training, testing, and military operations of Surveillance Towed Array Sensor System Low Frequency Active (SURTASS LFA) sonar within the northwest Pacific Ocean and the north-central Pacific Ocean.

DATES: These Authorizations are effective from August 15, 2014, through August 14, 2015.

ADDRESSES: Electronic copies of the Navy's April 4, 2014 application letter and the Authorizations are available by writing to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225, by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**), or online at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Jeannine Cody, Office of Protected Resources, NMFS (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens if certain findings are made and regulations are issued. Under the MMPA, the term ''take'' means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture, or kill marine mammals. We, NMFS, have been delegated the authority to issue such regulations and Authorizations.

With respect to military readiness activities, the MMPA defines harassment as ''(i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment];

or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B harassment].

Authorization may be granted for periods of five years or less if we find that the total taking will have a negligible impact on the affected species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for certain subsistence uses. In addition, we must prescribe regulations that include permissible methods of taking and other means effecting the least practicable adverse impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for subsistence uses. The regulations also must include requirements pertaining to the monitoring and reporting of such taking.

Regulations governing the taking of marine mammals incidental to the Navy's routine training, testing, and military operations of SURTASS LFA sonar are in effect through August 15, 2017 (77 FR 50290, August 20, 2012) and are codified at 50 CFR part 218 subpart X. These regulations include mitigation, monitoring, and reporting requirements for the incidental taking of marine mammals by the SURTASS LFA sonar system. For detailed information on this action, please refer to the August 20, 2012, **Federal Register** Notice and 50 CFR part 218 subpart X. Under those regulations, we must publish a notice of issuance of an Authorization or Authorization renewal in the **Federal Register** within 30 days of a determination.

Summary of Request

On April 4, 2014, we received an application from the Navy requesting a renewal of four Authorizations, originally issued on August 15, 2012 (August 28, 2012) and renewed in 2013 (78 FR 57368, September 18, 2013), for the taking of marine mammals incidental to routine training, testing, and military operations of SURTASS LFA sonar in the northwest Pacific Ocean and the north-central Pacific Ocean under the regulations issued on August 15, 2012 (77 FR 50290, August 20, 2012): one for the United States Naval Ship (USNS) VICTORIOUS (T–AGOS 19), one for the USNS ABLE (T–AGOS 20), one for the USNS EFFECTIVE (T–AGOS 21), and one for the USNS IMPECCABLE (T–AGOS 23) The application requested that these four Authorizations become effective on August 15, 2014, for a period not to exceed one year.

Summary of Activity Under the 2013 Authorizations

The Navy submitted quarterly mission reports for the periods of August 2013 through May 2014 within the required timeframes. These quarterly reports include the dates and times of the military readiness activities; location of each SURTASS LFA sonar vessel; mission operational area; marine mammal observations; and records of any delays or suspensions of sonar operations. The Navy must also report on the number of marine mammals detected by visual, passive and active acoustic monitoring and the estimated percentage of each marine mammal stock taken by Level A and Level B harassment. The reports indicate the following:

- The Navy conducted a total of 5 missions from August 15, 2013, through May 14, 2014, in the western North Pacific Ocean, which totaled 15.14 days and resulted in 29.3 hours of LFA sonar transmissions.
- The cumulative total days of SURTASS LFA sonar operations for the ABLE, EFFECTIVE, IMPECCABLE, and VICTORIOUS were 97, 98, 100, and 98 percent below the annual levels contemplated in the Final Rule for each vessel respectively (i.e., 240 days per vessel);
- The cumulative total hours of SURTASS LFA sonar transmissions for the ABLE, EFFECTIVE, IMPECCABLE, and VICTORIOUS were 97, 98, 100, and 98 percent below the levels contemplated in the Final Rule for each vessel respectively (*i.e.,* 432 hours per vessel);
- The total percentage of each marine mammal stock taken by Level B harassment has not exceeded the 12 percent cap. For each stock, the percentage of take was well below the levels authorized in the 2013 Authorizations.
- The total percentage of each marine mammal stock taken by Level A harassment has not exceeded the levels authorized in the 2013 Authorizations. In fact, the Navy reported no incidences of Level A harassment takes.

The operational tempo, number of active transmission hours, marine mammal detections and behavioral observations, and level of anticipated take of marine mammals fall within the scope and nature of those contemplated by the Final Rule and authorized in the 2013 Authorizations.

Monitoring Reports

The Navy has submitted the monitoring reports on time as required under 50 CFR 218.236 and the 2013 Authorizations. We have reviewed these reports and determined them to be acceptable. Based on these reports, the Navy has not exceeded the average annual estimated usage of the four SURTASS LFA sonar systems and remains well within the take authorized. In accordance with the current SURTASS LFA sonar regulations (50 CFR 218.230), the Navy must submit an annual report to us no later than 45 days after the 2013 Authorizations have expired. Upon receipt, we will post the annual report at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.*

Level of Taking for 2014 Authorizations Period

For the 2014 to 2015 Authorization period, the Navy expects to conduct the same type and amount of routine training, testing, and military operations of SURTASS LFA sonar in the northwest Pacific Ocean and the north-central Pacific Ocean that they requested under the 2012 and 2013 Authorizations. Similarly, the Navy expects to remain within the annual take estimates analyzed in the Final Rule. We determined that the level of taking by incidental harassment from the activities described in the Authorizations and supporting application is consistent with the findings made for the total taking allowable under the 2012 Final Rule.

Compliance With Mitigation, Monitoring, and Reporting Measures

Based on our review of the Navy's quarterly mission reports, the Navy complied with the required visual, passive, and acoustic monitoring measures in the Final Rule and 2013 Authorizations. The Navy also followed the required shutdown and other protocols for mitigating impacts to marine mammals while conducting operations.

The Navy is also complying with required measures under 50 CFR 218.236(d) to gain and share information on the species. The Navy reports that they are continuing to work on information transfer, declassification and archiving of ambient noise data from the Navy's Integrated Undersea Surveillance System (IUSS) to the public.

The Final Rule and 2012 Authorizations required the Navy to

convene a Scientific Advisory Group (SAG) to analyze different types of monitoring and research that could increase the understanding of the potential effects of LFA sonar on beaked whales and harbor porpoises (50 CFR 218.236(e)).

In March 2013, the Navy convened a SAG—comprised of subject matter experts in marine acoustics, bioacoustics, behavioral response studies, and the biology/behavior of beaked whales and porpoises— and tasked them with: summarizing our understanding of the likely impacts of SURTASS LFA sonar operations on these species; gathering information on various scientific and monitoring tools that could potentially be used to better understand these effects; and evaluating the feasibility and cost of these tools. In August 2013, NMFS received the SAG's final report titled, *Potential Effects of SURTASS LFA Sonar on Beaked Whales and Harbor Porpoises: Final Report* which presented recommendations on the feasibility, efficacy, and significance of any proposed research projects that would increase the understanding of the potential effects of LFA sonar on beaked whales and harbor porpoises.

In February 2014, the SAG's Executive Oversight Group (EOG) comprised of members from the Navy and NMFS, met to assess and discuss the conclusions and proposed research approaches in the SAG's final report. The goal of the meeting was to develop a plan of action recommending monitoring and research efforts that the Navy could implement to study the potential effects of SURTASS LFA on beaked whales and harbor porpoises. The meeting, EOG discussions, and development of an action plan will assist the Navy in fulfilling its responsibilities under the Final Rule for beaked whale and harbor porpoise monitoring and section 12(a) of the annual LOAs. The Navy has considered the SAG final report's assessments and continues to develop an appropriate plan of action for new monitoring and/or research and submit to NMFS in the near future. The EOG will meet again in Fall 2014 to agree on the best research or monitoring recommendations for each taxa and develop a plan of action recommending how the Navy should carry out future research.

Based on the foregoing information and the Navy's application, we determined that the mitigation, monitoring, and reporting measures required under 50 CFR 218.234, .235, and .236 and NMFS' 2013 Authorizations were undertaken and will be undertaken during the period of validity of the renewed 2014 Authorizations.

Adaptive Management

The Final Rule and 2013 Authorizations include an adaptive management framework that allows us to consider new information and to determine (with input from the Navy regarding practicability) if modifications to mitigation and/or monitoring measures are appropriate and practicable. This framework includes a requirement for an annual meeting between us and the Navy, if either agency deems it necessary.

Section 218.241 of the Final Rule describes three scenarios that could contribute to the decision to modify the mitigation or monitoring measures, including: (a) Results from the Navy's monitoring from the previous year's operation of SURTASS LFA sonar; (b) compiled results of Navy-funded research and development studies; (c) results from specific stranding investigations; (d) results from general marine mammal and sound research funded by the Navy or other sponsors; and (e) any information that reveals marine mammals may have been taken in a manner, extent or number not anticipated by these regulations or subsequent Authorizations. None of the information reviewed by NMFS or the Navy resulted in any modifications to the existing mitigation or monitoring measures at this time.

Consideration of Areas as Potential OBIAs

We intend to evaluate new information relating to several areas for potential consideration as OBIAs for mysticetes and/or sperm whales before the Navy submits their 2015 renewal request for Authorizations under the Final Rule. All of these areas fall outside the areas in which the Navy may operate under the 2014 Authorizations. Our evaluation will include the following areas:

- Atlantic Ocean: Southeast Shoal-Grand Banks, Canada; Grand Manan Basin Right Whale Conservation Area, Canada; Jordan Basin-Gulf of Maine, U.S.; Challenger Bank, Bermuda; and nearshore waters offshore New Jersey, U.S.
- Gulf of Mexico: areas in the eastern Gulf of Mexico, U.S.; Mississippi and DeSoto Canyons, U.S.
- Indian Ocean: Masira Bay, Oman and the Geyser-Zelee Complex, Madagascar.
- North Sea: Dogger Bank, Germany.
- Mediterranean Sea: central Tyrrhenian Sea and areas in the northern Mediterranean Sea.
- Pacific Ocean: South Taranaki Bight, New Zealand; the Coral Sea Commonwealth Marine Reserve, Australia; and the proposed expanded areas of the Gulf of the Farallones and Cordell Bank National Marine Sanctuaries, U.S.

None of these areas is located within the Navy's mission areas for the 2014 Authorizations and the Navy will not operate SURTASS LFA sonar in these areas within the timeframes of the 2014–2015 Authorizations. We will evaluate these areas further as a potential OBIAs with input from the Navy regarding practicability, as necessary through the adaptive management process, for the Navy's 2015 Authorization requests. Throughout the effective period of the Final Rule, we will consider and discuss with the Navy any relevant new information as it arises related to areas that may qualify as potential OBIAs or any other mitigation for SURTASS LFA sonar.

Authorization

We have issued four Authorizations to the Navy, authorizing the incidental harassment of marine mammals, incidental to operating the four SURTASS LFA sonar systems for routine training, testing and use during military operations. Issuance of these four Authorizations is based on findings, described in the preamble to the final rule (77 FR 50290, August 20, 2012) and supported by information contained in the Navy's required reports on SURTASS LFA sonar and their application, that the activities described under these four Authorizations will have a negligible impact on marine mammal species or stocks and will not have an unmitigable adverse impact on their availability for taking for subsistence uses.

These Authorizations remain valid through August 14, 2015, provided the Navy remains in conformance with the conditions of the regulations and the LOAs, and the mitigation, monitoring, and reporting requirements described in 50 CFR 218.230 through 218.241 (77 FR 50290, August 20, 2012) and in the Authorizations are undertaken.

Dated: August 15, 2014.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–19803 Filed 8–20–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. IC14–13–000 and IC14–15–000]

Commission Information Collection Activities (FERC–510 and FERC–549B) Comment Request

AGENCY: Federal Energy Regulatory Commission.

ACTION: Comment request.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 USC 3507(a)(1)(D), the Federal Energy Regulatory Commission (Commission or FERC) is submitting its information collection FERC–510 (Application for Surrender of Hydropower License) and FERC–549B (Gas Pipeline Rates: Capacity Reports and Index of Customers) 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 previously issued notices in the **Federal Register** for FERC–510 (79 FR 32925, 6/9/2014) and FERC–549B (79 FR 32929, 6/9/2014) requesting public comments. The Commission received no comments on these collections and is making this notation in its submittal to OMB.

Note: The Commission issued both 60-day notices for both the FERC–510 and FERC–549B separately under different docket numbers. Both docket numbers (IC14–13–000 and IC14–15–000) are combined in this notice. This combination has no effect on the requirements within each information collection.

DATES: Comments on the collection of information are due by September 22, 2014.

ADDRESSES: Comments filed with OMB, identified by the OMB Control No. 1902–0068 (FERC–510) or 1902–0169 (FERC–549B) 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 Commission, in Docket No. IC14–13–000 or IC14–15–000, 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: 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:

Type of Request: Three-year extension of the information collection requirements for all collections described below with no changes to the current reporting requirements. Please note that each collection is distinct from the next.

Comments: Comments are invited on: (1) Whether the collections of information are 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 estimates of the burden and cost of the collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collections; and (4) ways to minimize the burden of the collections of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FERC–510, Application for Surrender of Hydropower License

OMB Control No.: 1902–0068.

Abstract: The information collected under the requirements of FERC–510 is used by the Commission to implement the statutory provisions of sections 4(e), 6 and 13 of the Federal Power Act (FPA) (16 U.S.C. sections 797(e), 799 and 806). Section 4(e) gives the Commission authority to issue licenses for the purposes of constructing, operating and maintaining dams, water conduits, reservoirs, powerhouses, transmission lines or other power project works necessary or convenient for developing and improving navigation, transmission and utilization of power using bodies of water over which Congress has jurisdiction. Section 6 gives the Commission the authority to prescribe the conditions of licenses including the revocation or surrender of the license. Section 13 defines the Commission's authority to delegate time periods for when a license must be terminated if project construction has not begun. Surrender of a license may be desired by a licensee when a licensed project is retired or not constructed or natural catastrophes have damaged or destroyed the project facilities.

FERC–510 is the application for the surrender of a hydropower license. The information is used by Commission staff to determine the broad impact of such surrender. The Commission will issue a notice soliciting comments from the public and other agencies and conduct a careful review of the application before issuing an order for Surrender of a License. The order is the result of an analysis of the information produced, i.e., economic, environmental concerns, etc., which is examined to determine if the application for surrender is warranted. The order implements the existing regulations and is inclusive for surrender of all types of hydropower licenses issued by FERC and its predecessor, the Federal Power Commission. The Commission implements these mandatory filing requirements in the Code of Federal Regulations (CFR) under 18 CFR 6.1–6.4.

Type of Respondent: Private or Municipal Hydropower Licensees.

Estimate of Annual Burden: The Commission estimates the annual public reporting burden for the information collection as:

FERC–510, APPLICATION FOR SURRENDER OF HYDROPOWER LICENSE

Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1)*(2)=(3)	Average burden & cost per response [1] (4)	Total annual burden hours & total annual cost (3)*(4)=(5)	Cost per respondent ($) (5)÷(1)
16	1	16	10 $705	160 $11,280	$705

[1] We estimate that the salary and skill mix is similar to that of Commission employees. The average hourly cost of $70.50 (for salary plus benefits) is used. The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $70.50 per Hour = Average Cost per Response.

FERC–549B, Gas Pipeline Rates: Capacity Reports and Index of Customers

OMB Control No.: 1902–0169

Abstract: The information collected under the requirements of FERC–549B includes both the Index of Customers (IOC) report under Commission regulations at 18 Code of Federal Regulations (CFR) 284.13(c) and three capacity reporting requirements. One of these is in Commission regulations at 18 CFR 284.13(b) and requires reports on firm and interruptible services. The second is at 18 CFR 284.13(d)(1) and requires pipelines make information on capacity and flow information available on their Internet Web sites. The third is at 18 CFR 284.13(d)(2) and requires an annual filing of peak day capacity.

Capacity Reports Under 284.13(b) and 284.13(d)(1)

On April 4, 1992, in Order No. 636 (RM91–11–000), the Commission established a capacity release mechanism under which shippers could release firm transportation and storage capacity on either a short- or long-term basis to other shippers wanting to obtain capacity. Pipelines posted available firm and interruptible capacity information on their electronic bulletin boards (EBBs) to inform potential shippers.

On August 3, 1992, in Order No. 636–A (RM91–11–002), the Commission determined through staff audits, that the efficiency of the capacity release mechanism could be enhanced by standardizing the content and format of capacity release information and the methods by which shippers accessed this information, which pipelines posted to their EBBs

On March 29, 1995, through Order 577 (RM95–5–000), the Commission amended § 284.243(h) of its regulations to allow shippers the ability to release capacity without having to comply with the Commission's advance posting and bidding requirements.

On February 9, 2000, in Order No. 637 (RM98–10–000), to create greater substitution between different forms of capacity and to enhance competition across the pipeline grid, the Commission revised its capacity release regulations regarding scheduling, segmentation and flexible point rights, penalties, and reporting requirements. This resulted in more reliable capacity information availability and price data that shippers needed to make informed decisions in a competitive market as well as to improve shipper's and the Commission's ability to monitor the market for potential abuses.

Peak Day Annual Capacity Report Under 284.13(d)(2)

18 CFR 284.13(d)(2) requires an annual peak day capacity report of all interstate pipelines, including natural gas storage only companies. This report is generally a short report showing the peak day design capacity or the actual peak day capacity achieved, with a short explanation, if needed. The regulation states:

An interstate pipeline must make an annual filing by March 1 of each year showing the estimated peak day capacity of the pipeline's system, and the estimated storage capacity and maximum daily delivery capability of storage facilities under reasonably representative operating assumptions and the respective assignments of that capacity to the various firm services provided by the pipeline.

This annual report/filing is publicly available, while other more specific interstate pipeline and storage capacity details are filed as CEII, such as the Annual System Flow Diagram (FERC–567) which are not publicly available.

Index of Customers Under 284.13(c)

In Order 581, issued September 28, 1995 (Docket No. RM95–4–000), the Commission established the IOC quarterly information requirement. This Order required the reporting of five data elements in the IOC filing: the customer name, the rate schedule under which service is rendered, the contract effective date, the contract termination date, and the maximum daily contract quantity, for either transportation or storage service, as appropriate.

In a notice issued separate from Order 581 in Docket No. RM95–4–000, issued February 29, 1996, the Commission, through technical conferences with industry, determined that the IOC data reported should be in tab delimited format on diskette and in a form as proscribed in Appendix A of the rulemaking. In a departure from past practice, a three-digit code, instead of a six-digit code, was established to identify the respondent.

In Order 637, issued February 9, 2000 (Docket Nos. RM98–10–000 and RM98–12–000), the Commission required the filing of: the receipt and delivery points held under contract and the zones or segments in which the capacity is held, the common transaction point codes, the contract number, the shipper identification number, an indication whether the contract includes negotiated rates, the names of any agents or asset managers that control capacity in a pipeline rate zone, and any affiliate relationship between the pipeline and the holder of capacity. It was stated in the Order that the changes to the Commission's reporting requirements would enhance the reliability of information about capacity availability and price that shippers need to make informed decisions in a competitive market as well as improve shippers' and the Commission's ability to monitor marketplace behavior to detect, and remedy anti-competitive behavior. Order 637 required a pipeline post the information quarterly on its Internet Web sites instead of on the outdated EBBs.

Type of Respondent: Respondents for this data collection are interstate pipelines subject to FERC regulation under the Natural Gas Act and those entities defined as Hinshaw Pipelines under the Natural Gas Policy Act.

Estimate of Annual Burden: The Commission estimates the annual public reporting burden for the information collection as:

FERC–549B (GAS PIPELINE RATES: CAPACITY REPORTS AND INDEX OF CUSTOMERS)

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1)*(2)=(3)	Average burden & cost per response [2] (4)	Total annual burden hours & total annual cost (3)*(4)=(5)	Cost per respondent ($) (5)÷(1)
Capacity Reports under 284.13(b) & 284.13(d)(1)	185	6	1,110	145 $10,222.50	160,950 $11,346,975	61,335
93049344Peak Day Annual Capacity Report under 284.13(d)(2)	185	1	185	10 $705	1,850 $130,425	705
Index of Customers under 284.13(c)	185	4	740	3 $211.50	2,220 $156,510	846
Total			2,035		165,020 $11,633,910	62,886

[2] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $70.50 per hour. This cost is based on the average FERC employee salary. We assume (based upon consultation of subject matter experts for this industry) that respondents to this collection are similarly compensated in terms of salary and benefits.

Dated: August 15, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–19863 Filed 8–20–14; 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 corporate filings:

Docket Numbers: EC14–116–000.

Applicants: American Electric Power Service Corporation, AEP Ohio Transmission Company, Inc.

Description: Amendment to July 25, 2014 Application Under Section 203 of the Federal Power Act of American Electric Power Service Corporation on behalf of AEP Ohio Transmission Company, Inc.

Filed Date: 8/14/14.

Accession Number: 20140814–5087.

Comments Due: 5 p.m. ET 9/4/14.

Docket Numbers: EC14–117–000.

Applicants: American Electric Power Service Corporation.

Description: Amendment to July 25, 2014 Application Under Section 203 of the Federal Power Act of American Electric Power Service Corporation on behalf of AEP Ohio Transmission Company, Inc.

Filed Date: 8/14/14.

Accession Number: 20140814–5092.

Comments Due: 5 p.m. ET 9/4/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–2233–003.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 2014–08–14 Order 764 Amended Compliance to be effective 6/30/2015.

Filed Date: 8/14/14.

Accession Number: 20140814–5083.

Comments Due: 5 p.m. ET 9/4/14.

Docket Numbers: ER14–2361–000.

Applicants: Sunwave Gas & Power New York, Inc.

Description: Amendment and supplement to July 3, 2014 Sunwave Gas & Power New York, Inc. tariff filing.

Filed Date: 8/7/14.

Accession Number: 20140807–5100.

Comments Due: 5 p.m. ET 8/28/14.

Docket Numbers: ER14–2655–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 2014–08–14_SA 2684 Substitute Original GRE–MP Ortman T–T to be effective 8/14/2014.

Filed Date: 8/14/14.

Accession Number: 20140814–5082.

Comments Due: 5 p.m. ET 9/4/14.

Docket Numbers: ER14–2656–000.

Applicants: ISO New England Inc.

Description: ISO New England Inc's 2nd Quarter 2014 Capital Budget Report.

Filed Date: 8/13/14.

Accession Number: 20140813–5161.

Comments Due: 5 p.m. ET 9/3/14.

Docket Numbers: ER14–2657–000.

Applicants: El Paso Electric Company.

Description: Tariff Updates to Reflect Recent Triennial Grant of Authorization to be effective 10/13/2014.

Filed Date: 8/14/14.

Accession Number: 20140814–5058.

Comments Due: 5 p.m. ET 9/4/14.

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: August 14, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–19858 Filed 8–20–14; 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 corporate filings:

Docket Numbers: EC14–124–000.

Applicants: Integrys Energy Group, Inc., Integrys Energy Services, Inc., Integrys Energy Services of New York, Inc., Exelon Generation Company, LLC.

Description: Joint Application for Authorization under Section 203 of the FPA and Requests for Confidential Treatment and Waivers of Exelon Generation Company, LLC, Integrys Energy Group, Inc., *et al.*

Filed Date: 8/12/14.

Accession Number: 20140812–5139.
Comments Due: 5 p.m. ET 9/2/14.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG14–84–000.
Applicants: Major Oak Power, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Major Oak Power, LLC.
Filed Date: 8/13/14.
Accession Number: 20140813–5111.
Comments Due: 5 p.m. ET 9/3/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–2273–001.
Applicants: Public Service Company of Colorado.
Description: 2014–8–13_Att U_U–1_ Svc Agmt–IA–NSP 0.0.1–Filing to be effective 8/1/2014.
Filed Date: 8/13/14.
Accession Number: 20140813–5079.
Comments Due: 5 p.m. ET 9/3/14.

Docket Numbers: ER14–2286–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–08–13_ATC D–T IAs Update Batch 2 Amendment to be effective 8/27/2014.
Filed Date: 8/13/14.
Accession Number: 20140813–5108.
Comments Due: 5 p.m. ET 9/3/14.

Docket Numbers: ER14–2293–001.
Applicants: DTE Electric Company.
Description: Cancel PLD Wholesale Distribution Agreement to be effective 7/1/2014.
Filed Date: 8/13/14.
Accession Number: 20140813–5131.
Comments Due: 5 p.m. ET 9/3/14.

Docket Numbers: ER14–2639–000.
Applicants: Sirius Investment Management, Inc.
Description: Notice of cancellation of its market-based rate tariff etc.
Filed Date: 8/11/14.
Accession Number: 20140812–0001.
Comments Due: 5 p.m. ET 9/2/14.

Docket Numbers: ER14–2640–000.
Applicants: Lake Erie CleanPower Connector.
Description: Request for Order Confirming Negotiated Rate Authority of ITC Lake Erie Connector.
Filed Date: 8/13/14.
Accession Number: 20140813–5037.
Comments Due: 5 p.m. ET 9/3/14.

Docket Numbers: ER14–2641–000.
Applicants: Electric Energy, Inc.
Description: Revised Market-Based Rate Tariff to be effective 8/14/2014.
Filed Date: 8/13/14.
Accession Number: 20140813–5084.
Comments Due: 5 p.m. ET 9/3/14.

Docket Numbers: ER14–2642–000.
Applicants: Dynegy Oakland, LLC.
Description: Revised Market-Based Rate Tariff to be effective 8/14/2014.
Filed Date: 8/13/14.
Accession Number: 20140813–5085.
Comments Due: 5 p.m. ET 9/3/14.

Docket Numbers: ER14–2643–000.
Applicants: Dynegy Energy Services, LLC.
Description: Revised Market-Based Rate Tariff to be effective 8/14/2014.
Filed Date: 8/13/14.
Accession Number: 20140813–5086.
Comments Due: 5 p.m. ET 9/3/14.

Docket Numbers: ER14–2644–000.
Applicants: Dynegy Midwest Generation, LLC.
Description: Revised Market-Based Rate Tariff to be effective 8/14/2014.
Filed Date: 8/13/14.
Accession Number: 20140813–5087.
Comments Due: 5 p.m. ET 9/3/14.

Docket Numbers: ER14–2645–000.
Applicants: Dynegy Kendall Energy, LLC.
Description: Revised Market-Based Rate Tariff to be effective 8/14/2014.
Filed Date: 8/13/14.
Accession Number: 20140813–5088.
Comments Due: 5 p.m. ET 9/3/14.

Docket Numbers: ER14–2646–000.
Applicants: Casco Bay Energy Company, LLC.
Description: Revised Market-Based Rate Tariff to be effective 8/14/2014.
Filed Date: 8/13/14.
Accession Number: 20140813–5089.
Comments Due: 5 p.m. ET 9/3/14.

Docket Numbers: ER14–2647–000.
Applicants: Dynegy Power Marketing, LLC.
Description: Revised Market-Based Rate Tariff to be effective 8/14/2014.
Filed Date: 8/13/14.
Accession Number: 20140813–5090.
Comments Due: 5 p.m. ET 9/3/14.

Docket Numbers: ER14–2648–000.
Applicants: Dynegy Moss Landing, LLC.
Description: Revised Market-Based Rate Tariff to be effective 8/14/2014.
Filed Date: 8/13/14.
Accession Number: 20140813–5091.
Comments Due: 5 p.m. ET 9/3/14.

Docket Numbers: ER14–2649–000.
Applicants: Illinois Power Resources Generating, LLC.
Description: Revised Market-Based Rate Tariff to be effective 8/14/2014.
Filed Date: 8/13/14.
Accession Number: 20140813–5092.
Comments Due: 5 p.m. ET 9/3/14.

Docket Numbers: ER14–2650–000.
Applicants: Dynegy Marketing and Trade, LLC.
Description: Revised Market-Based Rate Tariff to be effective 8/14/2014.
Filed Date: 8/13/14.
Accession Number: 20140813–5093.
Comments Due: 5 p.m. ET 9/3/14.

Docket Numbers: ER14–2651–000.
Applicants: Ontelaunee Power Operating Company, LLC.
Description: Revised Market-Based Rate Tariff to be effective 8/14/2014.
Filed Date: 8/13/14.
Accession Number: 20140813–5094.
Comments Due: 5 p.m. ET 9/3/14.

Docket Numbers: ER14–2652–000.
Applicants: Sithe/Independence Power Partners, L.P.
Description: Revised Market-Based Rate Tariff to be effective 8/14/2014.
Filed Date: 8/13/14.
Accession Number: 20140813–5095.
Comments Due: 5 p.m. ET 9/3/14.

Docket Numbers: ER14–2653–000.
Applicants: PacifiCorp.
Description: WAPA 2436 Agreement for Interconnections & Transmission Service to be effective 10/13/2014.
Filed Date: 8/13/14.
Accession Number: 20140813–5098.
Comments Due: 5 p.m. ET 9/3/14.

Docket Numbers: ER14–2654–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–08–13_SA 2673 Odell Wind-NSP Amended E&P Agreement (G826) to be effective 8/14/2014.
Filed Date: 8/13/14.
Accession Number: 20140813–5109.
Comments Due: 5 p.m. ET 9/3/14.

Docket Numbers: ER14–2655–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–08–14_SA 2684 GRE–MP Ortman T–T IA to be effective 8/14/2014.
Filed Date: 8/13/14.
Accession Number: 20140813–5132.
Comments Due: 5 p.m. ET 9/3/14.

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: August 13, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–19857 Filed 8–20–14; 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: RP11–1844–000.

Applicants: Rockies Express Pipeline LLC.

Description: Settlement Refund Report in RP11–1844, *et al.*

Filed Date: 8/11/14.

Accession Number: 20140811–5056.

Comments Due: 5 p.m. ET 8/25/14.

Docket Numbers: RP14–1178–000.

Applicants: Northern Natural Gas Company.

Description: 20140812 Annual Carlton Requirements to be effective 11/1/2014.

Filed Date: 8/12/14.

Accession Number: 20140812–5040.

Comments Due: 5 p.m. ET 8/25/14.

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 August 13, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–19859 Filed 8–20–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13590–001]

Lockhart Power Company, Inc.; Notice of Availability of Final Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 (NEPA) and the Federal Energy Regulatory Commission's (Commission or FERC) regulations, 18 CFR pt. 380, the Office of Energy Projects has reviewed Lockhart Power Company, Inc.'s application for license for the Riverdale Hydroelectric Project (FERC Project No. 13590–001), located on the Enoree River, near the town of Enoree, in Spartanburg and Laurens Counties, South Carolina. The project does not occupy federal lands.

Staff prepared a final environmental assessment (FEA), which analyzes the potential environmental effects of licensing the project, and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the FEA is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* at (866) 208–3676 (toll free), or, 202–502–8659 (TTY).

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.

FOR FURTHER INFORMATION CONTACT: Sarah Salazar by phone at 202–502–6863, or by email at *sarah.salazar@ferc.gov*.

Dated: August 15, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–19865 Filed 8–20–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–514–000]

ANR Pipeline Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Sulphur Springs Compression Project and Request for Comments on Environmental Issues

August 15, 2014.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Sulphur Springs Compression Project involving construction and operation of facilities by ANR Pipeline Company (ANR) in Henry County, Indiana. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Please note that the scoping period will close on September 15, 2014.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

ANR provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically-asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (*www.ferc.gov*).

Summary of the Proposed Project

ANR proposes to construct and operate one new compressor unit and appurtenant facilities at its existing Sulphur Springs Compressor Station in Henry County, Indiana. The Sulphur Springs Compression Project would provide about 133.6 million standard cubic feet of natural gas per day to ANR's wholly owned portion of the Lebanon Lateral which connects the Glen Karn meter facilities in Darke County, Ohio to the Sulphur Springs Compressor Station.

According to ANR, its project would increase reverse flow capability on its system and provide greater reliability, flexibility, and security to existing shippers.

The Sulphur Springs Compression Project consists of the following facilities:

- An approximately 10,915 horsepower Solar Taurus 70 turbine with C65 compressor;
- exhaust silencer, air inlet filtration, and lube oil cooling equipment;
- two high pressure gas coolers;
- high-pressure gas filter/separator;
- associated piping, valves, fittings, regulators, cables, conduits, overhead cable trays, cathodic protection devices, parking areas, and access road;
- compressor building to house the new turbine;
- control building;
- natural gas-fired boiler; and
- aboveground storage tanks.

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

Construction of the proposed aboveground facilities would disturb about 24.3 acres of open and industrial/commercial land owned by ANR. Of this total, approximately 1.1 acres would be permanently impacted to accommodate the new facilities. Remaining disturbed areas would be revegetated or otherwise returned to pre-existing conditions.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [2] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- land use;
- water use and quality;
- vegetation and wildlife;
- air quality and noise;
- public safety; and
- cumulative impacts.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section beginning on page 4.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the preparation of the EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before September 15, 2014.

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances please reference the project docket number (CP14–514–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov*.

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments electronically using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.''* You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who own homes within certain distances of aboveground facilities and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If we publish and distribute the EA, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an ''intervenor'' which is an official party to the Commission's

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the User's Guide under the ''e-filing'' link on the Commission's Web site.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (i.e., CP14–514). Be sure you have selected an appropriate date range. 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. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–19861 Filed 8–20–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–96–000]

Algonquin Gas Transmission, LLC; Notice of Revised Public Comment Meeting and Additional Public Comment Meeting on the Draft Environmental Impact Statement for the Algonquin Incremental Market Project

On August 6, 2014, the Federal Energy Regulatory Commission (FERC or Commission) issued the Draft Environmental Impact Statement (EIS) for the Algonquin Incremental Market Project. The Draft EIS announced the close of the comment period on September 29, 2014 and identified four public comment meetings. This notice revises the date of the meeting to be held in Cortlandt Manor, New York from September 11, 2014 to September 15, 2014; and adds one new meeting in Mapleville, Rhode Island on September 16, 2014. The other announced meetings in Connecticut and Massachusetts will be held at the dates, times, and locations previously identified. The new meetings noticed herein will begin at 6:30 p.m. and are scheduled as follows:

Date	Location
Monday, September 15, 2014 (There is NO meeting on September 11, 2014).	Muriel H. Morabito Community Center, 29 Westbrook Drive, Cortlandt Manor, NY 10567, (914) 739–5845.
Tuesday, September 16, 2014.	Crystal Lake Golf Club, 100 Bronco Highway, Mapleville, RI 02839, (401) 567–4500.

This and all public meetings will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information. Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the ''eLibrary'' link and the project docket number (i.e., CP–14–96).

Dated: August 15, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–19864 Filed 8–20–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–2630–000]

Regulus Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Regulus Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is September 4, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email

FERCOnlineSupport@ferc.gov. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 15, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–19860 Filed 8–20–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–532–000]

Tennessee Gas Pipeline Company, L.L.C.; Notice of Request Under Blanket Authorization

Take notice that on August 8, 2014, Tennessee Gas Pipeline Company, L.L.C. (Tennessee), 1001 Louisiana Street, Houston, Texas 77002, filed in Docket No. CP14–532–000, a prior notice request pursuant to sections 157.205 and 157.216 of the Commission's regulations under the Natural Gas Act (NGA) as amended, requesting authorization to abandon an inactive injection and withdrawal well (Well 4789) and related lateral pipeline and appurtenances in the Hebron Storage Field in Potter County, Pennsylvania, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Specifically, Tennessee proposes to plug and abandon Well 4789 and abandon by removal the related well head, a meter run, approximately 350 feet of 6-inch diameter lateral pipeline and riser. Tennessee states that it has made numerous attempts to clean and repair Well 4789, which have proved unsuccessful. Tennessee asserts that Well 4789 is inactive and, due to its mechanical condition, cannot be utilized as an injection and withdrawal well. Tennessee avers that the proposed abandonment of Well 4789 will not affect either the capacity or deliverability of the Hebron Storage Field and has not been used to provide service to any customer for more than 12 months. Tennessee estimates the cost of the proposed project to be $545,860.

Any questions concerning this application may be directed to Thomas G. Joyce, Manager, Certificates, Tennessee Gas Pipeline Company, L.L.C., 1001 Louisiana Street, Houston, Texas 77002, by telephone at (713) 420–3299, or by email *tom_joyce@kindermorgan.com;* John E. Griffin, Assistant General Counsel, Tennessee Gas Pipeline Company, L.L.C., 1001 Louisiana Street, Houston, Texas 77002, by telephone at (713) 420–5751, or by email at *john_griffin2@kindermorgan.com;* or Debbie Kalisek, Regulatory Analyst, Tennessee Gas Pipeline Company, L.L.C., 1001 Louisiana Street, Houston, Texas 77002, by telephone at (713) 420–3292, or by email at *debbie_kalisek@kindermorgan.com*.

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: August 15, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–19862 Filed 8–20–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2014–0523; FRL 9915–42–OECA]

Agency Information Collection Activities; Proposed Collection; Comment Request; Air Stationary Source Compliance and Enforcement Information Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on Jan 31, 2015. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before October 20, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–

OECA–2014–0523, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- Email: *docket.oeca@epa.gov*.
- Fax: (202) 566–9744.
- Mail: U.S. Environmental Protection Agency, EPA Docket Center, [Enter Name of Docket Here], Mail Code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460 Hand Delivery: EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OECA–2014–0523. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: David A. Meredith, Enforcement Targeting and Data Division, Office of Compliance, (2222A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–4152; email address: *meredith.david@epa.gov.*

SUPPLEMENTARY INFORMATION:

How can I access the docket and/or submit comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OECA–2014–0523, which is available for online viewing at *www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket and Information Center (ECDIC) in the EPA Docket Center (EPA/DC), EPA WJC-West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the ECDIC is 202–566–1752.

Use *www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What information is EPA particularly interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES.**
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What information collection activity or ICR does this apply to?

Affected entities: Entities potentially affected by this action are State, Local, Territorial, Indian Nations, and Commonwealth governments.

Title: Air Stationary Source Compliance and Enforcement Information Reporting.

ICR numbers: EPA ICR No. 0107.011, OMB Control No. 2060–0096.

ICR status: This ICR is currently scheduled to expire on Jan. 31, 2015. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Air Stationary Source Compliance and Enforcement Information Reporting is an activity whereby State, Local, Native American, Territorial, and Commonwealth governments (hereafter referred to as either ''states/locals'' or ''state and local agencies'') make air stationary source compliance and enforcement information available to the U.S.

Environmental Protection Agency (EPA or the Agency) on a cyclic basis via input to the Air Facility System (AFS), until mid October 2014, and via input to the modernized AFS—the Air component of the Integrated Compliance Information System (ICIS-Air), from late October 2014 forward. The Agency, with support from state and local agencies, is nearing completion of the modernization of AFS into ICIS-Air. The planned date of the implementation of ICIS-Air is October 27, 2014.

ICIS-Air supports EPA and state and local agency efforts to ensure compliance with the nation's environmental laws pertaining to air, via the collection and management of important Clean Air Act (CAA or the ''Act'') compliance and enforcement information. The information to be provided to EPA via ICIS-Air includes source characterization, compliance monitoring, and enforcement activities. EPA will use this information to assess progress toward meeting emission requirements developed under the authority of the CAA, and to protect and maintain air quality, public health, and the environment. Agencies receive delegation of the CAA through regulated grant authorities, and report compliance/enforcement activities undertaken at stationary sources pursuant to the Minimum Data Requirements (MDRs) as outlined in this ICR. The provisions of Section 114(a)(1) of the Clean Air Act, 42 U.S.C. Section 7414(a)(1) provide the broad authority for the reporting of compliance monitoring and enforcement information, along with Subpart Q-Reports in 40 CFR 51: Sections 51.324(a) and (b), and 51.327. This renewal requires the continuation of reporting of previously established MDRs via a new information system solution—ICIS-Air instead of AFS. Since AFS will be replaced by ICIS-Air prior to the official renewal of this ICR, we are including in the Supporting Statement a crosswalk between the MDRs expressed as the current AFS data elements and as the new ICIS-Air data elements.

Are there changes in the estimates from the last approval?

The current EPA database for which these data are reported (i.e., AFS) will not exist at the time of this ICR renewal; therefore, EPA will not perform a new burden estimate based on reporting to AFS. Since the new, replacement system, ICIS-Air, is not yet implemented in a production environment, we cannot use the new system to develop a new burden estimate for future reporting to ICIS-Air at the current time. EPA will estimate burden in the **Federal Register** notice with the ICR to the best of its ability and will take comment on those estimates.

While transition to the new ICIS-Air system will require some investment at the federal, state and local levels, EPA believes that by providing a modern and more capable information system, states and locals as a group will experience a significant overall reduction in reporting burden. This will occur for states/locals that are direct users, as well as for those using electronic data transfer (EDT) to report MDRs to ICIS-Air. In addition to the anticipated burden reduction associated with completion of AFS modernization to ICIS-Air, EPA is nearing completion of two major policy revisions—the High Priority Violations (HPV) and Federally Reportable Violations (FRV) policies—that will result in a narrowing of the scope of CAA enforcement and compliance reporting as compared to the previous ICR renewal cycle. These policy revisions will result in additional burden reduction for state and local agencies.

EPA does anticipate that operational and maintenance costs associated with state and local agency reporting will increase modestly due to inflationary pressures (e.g., increased hourly resource costs for management, professional, and related occupational groups). The labor rates used in the ICR estimates will be taken from the Department of Labor Employment Compensation and Costs (ECEC) Web site. These changes will be reflected in the final supporting statement for this ICR.

What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will be submitted by EPA to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB, and a second opportunity to submit additional comments to OMB. If you have any questions about this ICR, or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: August 15, 2014.

Betsy Smidinger,

Acting Director, Office of Compliance, Office of Enforcement and Compliance Assurance.

[FR Doc. 2014–19876 Filed 8–20–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2013–0323; FRL–9915–25–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Area Sources: Electric Arc Furnace Steelmaking Facilities (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NESHAP for Area Sources: Electric Arc Furnace Steelmaking Facilities (Renewal)'' (EPA ICR No. 2277.04, OMB Control No. 2060–0608) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through August 31, 2014. Public comments were previously requested via the **Federal Register** (78 FR 35023) on June 11, 2013 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before September 22, 2014.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2013–0323, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance,

and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR Part 63, Subpart A, and any changes, or additions specified at 40 CFR Part 63, Subpart YYYYY. Owners or operators of the affected facilities must submit a one-time-only report of any physical or operational changes, initial performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports addressing (1) the number of mercury switches removed or the weight of mercury recovered from the switches and properly managed, the estimated number of vehicles processed, an estimate of the percent of mercury switches recovered, and a certification that the recovered mercury switches were recycled at RCRA-permitted facilities, and (2) the control of contaminants from scrap according to the requirements in § 63.10(e) are required semiannually.

Form Numbers: None.

Respondents/affected entities: Owners or operators of electric arc furnace steelmaking facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart YYYYY).

Estimated number of respondents: 87 (total).

Frequency of response: Initially, semiannually and occasionally.

Total estimated burden: 1,417 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $136,341 (per year), includes no annualized capital or operation & maintenance costs.

Changes in the Estimates: There is a decrease in the respondent burden and an increase in Agency burden. These changes occurred due to the following adjustment: (1) This ICR revises the number of respondents from 91 to 87 based on input provided from industry trade association; and (2) This ICR corrects the frequency of semiannual report review from one to two in Table 2. This correction results in an increase in the estimated Agency burden.

Spencer Clark,

Acting Director, Collection Strategies Division.

[FR Doc. 2014–19850 Filed 8–20–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9914–40–Region 8]

Proposed Windfall Lien Settlement Agreement, Eaton Sugar Beet Factory Superfund Site, Eaton, Colorado

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed agreement; request for public comment.

SUMMARY: In accordance with the requirements of section 122(h)(1) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9622(h)(1), notice is hereby given of the proposed administrative settlement under section 107(r) of CERCLA, 42 U.S.C. 9607(r) between the U.S. Environmental Protection Agency (''EPA'') and the Town of Eaton, Colorado, (''Settling Party''). The Settling Party consents to and will not contest the authority of the United States to enter into this Agreement or to implement or enforce its terms.

The Settling Party, qualifying as a bona fide prospective purchaser as provided for under CERCLA section 107(r)(1), 42 U.S.C. 9607(4)(1), took title to the site of the abandoned Eaton Sugar Beet Factory in 2009 through the purchase of tax liens. The EPA conducted a time critical removal action to address asbestos contamination at the factory site from November of 2011 through April of 2013. EPA now seeks to enter into a settlement agreement for the release of the windfall lien that arose as a result of the asbestos removal action. The value of a windfall lien is limited to the increase in the fair market value of the land that was cleaned up by EPA and is limited also by the amount of the EPA's unrecovered response costs. The increased value of the land owned by the Settling Parties is $226,283.14.

The Settling Parties recognize that this Agreement has been negotiated in good faith and that this Agreement is entered into without the admission or adjudication of any issue of fact or law.

DATES: Comments must be submitted on or before September 22, 2014. For thirty (30) days following the date of publication of this document, the Agency will receive written comments relating to the agreement. The Agency will consider all comments received and may modify or withdraw its consent to the agreement if comments received disclose facts or considerations that indicate that the agreement is inappropriate, improper, or inadequate.

ADDRESSES: The Agency's response to any comments, the proposed agreement and additional background information relating to the agreement is available for public inspection at the EPA Superfund Record Center, 1595 Wynkoop Denver, Colorado.

Comments and requests for a copy of the proposed agreement should be addressed to Maureen O'Reilly, Enforcement Specialist, Environmental Protection Agency—Region 8, Mail Code 8ENF–RC, 1595 Wynkoop Street, Denver, Colorado 80202, and should reference the Eaton Sugar Beet Factory Superfund Site, Eaton, Colorado.

FOR FURTHER INFORMATION CONTACT: Andy Lensink, Enforcement Attorney, Legal Enforcement Program, Environmental Protection Agency—Region 8, Mail Code 8ENF–L, 1595 Wynkoop Street, Denver, Colorado 80202, (303) 312–6908.

Dated: July 17, 2014.

Eddie A. Sierra,

Acting Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, U.S. Environmental Protection Agency, Region VIII.

[FR Doc. 2014–19877 Filed 8–20–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE AND TIME: Tuesday August 26, 2014 at 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 2 U.S.C. 437g.

Matters concerning participation in civil actions or proceedings or arbitration.

Information the premature disclosure of which would be likely to have a

considerable adverse effect on the implementation of a proposed Commission action.

Internal personnel rules and internal rules and practices.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shelley E. Garr,

Deputy Secretary of the Commission.

[FR Doc. 2014–20030 Filed 8–19–14; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 2014–19535) published on pages 48747 and 48748 of the issue for Monday, August 18, 2014.

Under the Federal Reserve Bank of Atlanta heading, the entry for James Lee Clayton and BF3, LP, both of Knoxville, Tennessee; to acquire voting shares of MidCountry Financial Corp, and thereby indirectly acquire voting shares of MidCountry Bank, both in Macon, Georgia, is revised to read as follows:

1. *James Lee Clayton and BF3, LP,* both of Knoxville, Tennessee; to acquire voting shares of MidCountry Financial Corp, Macon, Georgia, and thereby indirectly acquire voting shares of MidCountry Bank, Marion, Illinois.

Comments on this application must be received by September 2, 2014.

Board of Governors of the Federal Reserve System, August 18, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–19842 Filed 8–20–14; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DEPARTMENT OF AGRICULTURE

Announcement of the Fifth 2015 Dietary Guidelines Advisory Committee Meeting

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of the Assistant Secretary for Health; and U.S. Department of Agriculture, Food, Nutrition and Consumer Services and Research, Education, and Economics.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act (FACA), the U.S. Department of Health and Human Services (HHS), in collaboration with the U.S. Department of Agriculture (USDA), is hereby giving notice that a meeting of the 2015 Dietary Guidelines Advisory Committee (DGAC) will be held and will be open to the public.

DATES: This meeting will be held on September 16, 2014, from 10:30 a.m.–5:15 p.m. E.D.T. and September 17, 2014 from 8:00 a.m.–3:45 p.m. E.D.T.

ADDRESSES: The meeting will be accessible by webcast on the Internet.

FOR FURTHER INFORMATION CONTACT: Designated Federal Officer (DFO), 2015 DGAC, Richard D. Olson, M.D., M.P.H.; Office of Disease Prevention and Health Promotion, OASH/HHS; 1101 Wootton Parkway, Suite LL100 Tower Building; Rockville, MD 20852: Telephone: (240) 453–8280; Fax: (240) 453–8281; Alternate DFO, 2015 DGAC, Kellie (O'Connell) Casavale, Ph.D., R.D., Nutrition Advisor; Office of Disease Prevention and Health Promotion, OASH/HHS; 1101 Wootton Parkway, Suite LL100 Tower Building; Rockville, MD 20852: Telephone: (240) 453–8280; Fax: (240) 453–8281; Lead USDA Co-Executive Secretary, Colette I. Rihane, M.S., R.D., Director, Office of Nutrition Guidance and Analysis, Center for Nutrition Policy and Promotion, USDA; 3101 Park Center Drive, Room 1034; Alexandria, VA 22302; Telephone: (703) 305–7600; Fax: (703) 305–3300; and/or USDA Co-Executive Secretary, Shanthy A. Bowman, Ph.D., Nutritionist, Food Surveys Research Group, Beltsville Human Nutrition Research Center, Agricultural Research Service, USDA; 10300 Baltimore Avenue, BARC-West Bldg 005, Room 125; Beltsville, MD 20705–2350; Telephone: (301) 504–0619. Additional information about the 2015 DGAC and this meeting is available on the Internet at *www.DietaryGuidelines.gov*.

SUPPLEMENTARY INFORMATION: Under Section 301 of Public Law 101–445 (7 U.S.C. 5341, the National Nutrition Monitoring and Related Research Act of 1990, Title III) the Secretaries of Health and Human Services (HHS) and Agriculture (USDA) are directed to issue at least every five years a report titled *Dietary Guidelines for Americans*. The law instructs that this publication shall contain nutritional and dietary information and guidelines for the general public, shall be based on the preponderance of scientific and medical knowledge current at the time of publication, and shall be promoted by each federal agency in carrying out any federal food, nutrition, or health program. The *Dietary Guidelines for Americans* was issued voluntarily by HHS and USDA in 1980, 1985, and 1990; the 1995 edition was the first statutorily mandated report, followed by subsequent editions at appropriate intervals. To assist with satisfying the mandate, a discretionary federal advisory committee is established every five years to provide independent, science-based advice and recommendations. The DGAC consists of a panel of experts who were selected from the public/private sector. Individuals who were selected to serve on the Committee have current scientific knowledge in the field of human nutrition and chronic disease.

Appointed Committee Members: Fourteen members currently serve on the 2015 DGAC. They were appointed by the Secretaries of HHS and USDA in May 2013. Information on the DGAC membership is available at *www.DietaryGuidelines.gov*.

Authority: The 2015 DGAC is authorized under 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended.

Committee's Task: The work of the DGAC is solely advisory in nature and time-limited. The Committee is tasked with developing recommendations based on the preponderance of current scientific and medical knowledge using a systematic review approach. The DGAC will examine the current *Dietary Guidelines for Americans,* take into consideration new scientific evidence and current resource documents, and develop a report that is to be given to the Secretaries of HHS and USDA. The report will outline science-based recommendations and rationales which will serve as the basis for developing the eighth edition of the *Dietary Guidelines for Americans.* It is planned for the Committee to hold approximately six public meetings to review and discuss recommendations. This will be the fifth meeting of the 2015 DGAC. Meeting dates, times, locations, and other relevant information are announced at least 15 days in advance of each meeting via **Federal Register** notice. As stipulated in the charter, the Committee will be terminated after delivery of its final report to the Secretaries of HHS and USDA or two years from the date the charter was filed, whichever comes first.

Purpose of the Meeting: In accordance with FACA and to promote transparency of the process, deliberations of the Committee will occur in a public forum. At this meeting, the Committee will continue its deliberations.

Meeting Agenda: The meeting agenda will include (a) review of Committee work since the last public meeting and (b) plans for future Committee work.

Meeting Registration: The meeting will be publicly accessible by webcast on the Internet; registration is required and is expected to open on August 19, 2014. To register, please go to *www.DietaryGuidelines.gov* and click on the link for ''Meeting Registration.'' To register by phone, please call National Capitol Contracting, Andrea Popp at (703) 243–9696 by 5:00 p.m. E.D.T., September 10, 2014. Registration must include name, affiliation, and phone number or email address. After registering, individuals will receive webcast access information via email.

Written Public Comments: Written comments from the public will continue to be accepted throughout the Committee's deliberative process. Written public comments can be submitted and/or viewed at *www.DietaryGuidelines.gov* using the ''Submit Comments'' and ''Read Comments'' links, respectively. Those commenting are asked to provide comments as early as possible in the Committee's process to increase the opportunity for meaningful impact. There is no deadline for comment submission prior to each public meeting. The Committee requests that commenters provide a brief (250 words) summary of the points or issues in the comment text box. If commenters are providing literature or other resources, complete citations or abstracts and electronic links to full articles or reports are preferred instead of attaching these documents to the comment. As the Committee continues its work, it may request additional public comments on specific topics; these requests and any instructions for submitting them are posted on the Web site.

Meeting Documents: Documents pertaining to Committee deliberations, including meeting agendas, summaries, and webcasts will be available on *www.DietaryGuidelines.gov* under ''Meetings.'' Meeting information will continue to be accessible online, at the NIH Library, and upon request at the Office of Disease Prevention and Health Promotion, OASH/HHS; 1101 Wootton Parkway, Suite LL100 Tower Building; Rockville, MD 20852: Telephone (240) 453–8280; Fax: (240) 453–8281.

Dated: August 4, 2014.

Don Wright,

Deputy Assistant Secretary for Health, Office of Disease Prevention and Health Promotion, Office of the Assistant Secretary for Health, U.S. Department of Health and Human Services.

Dated: August 5, 2014.

Angela Tagtow,

Executive Director, Center for Nutrition Policy and Promotion, U.S. Department of Agriculture.

Dated: August 7, 2014.

Chavonda Jacobs-Young,

Administrator, Agricultural Research Service, U.S. Department of Agriculture.

[FR Doc. 2014–19879 Filed 8–20–14; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60-Day–14–0924]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public 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. To request more information on the below proposed project or to obtain a copy of the information collection plan and instruments, call 404–639–7570 or send comments to Leroy A. Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov*.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. 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 to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. Written comments should be received within 60 days of this notice.

Proposed Project

Survey of Rapid Influenza Diagnostic Testing (RIDT) Practices in Clinical Laboratories and Evaluation of Laboratory Course (OMB Control No. 0920–0924, expired 02/28/2013)— Reinstatement with Change — Center for Surveillance, Epidemiology, and Laboratory Services, Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The purpose of this request is to obtain Office of Management and Budget (OMB) approval to reinstate with change, the data collection for the Survey of Rapid Influenza Diagnostic Test (RIDT) Practices in Clinical Laboratories (OMB Control No. 0920–0924). OMB approval for the 2012 RIDT project expired February 28, 2013. CDC seeks a three year approval to conduct the RIDT project.

Changes incorporated into this reinstatement request include changing the name of the collection to ''Survey of Rapid Influenza Diagnostic Testing (RIDT) Practices in Laboratories and Evaluation of RIDT Laboratory Course'' and adding a question about whether or not the participants have taken the free CDC rapid influenza testing course, Strategies for Improving Rapid Influenza Testing in Ambulatory Settings, and to rate the usefulness of the course in their clinical setting.

The Survey of Rapid Influenza Diagnostic Testing Practices in Clinical Laboratories and Evaluation of Laboratory Course is a national systematic study investigating rapid influenza diagnostic testing practices in clinical laboratories. The survey will be funded in full by the Center for Surveillance, Epidemiology, and Laboratory Services of the Centers for Disease Control and Prevention.

Influenza epidemics usually cause an average more than 200,000 hospitalizations and 36,000 deaths per year in the U.S. Respiratory illnesses caused by influenza viruses are not easily differentiated from other respiratory infections based solely on symptoms. Also influenza viruses may adversely affect different subpopulations.

The effective use of rapid influenza diagnostic testing practices is an important component of the differential diagnosis of influenza-like-illness in both inpatient and outpatient treatment facilities. Test results are used for making decisions about antiviral versus antibiotic use, and in making admission or discharge decisions. In many cases, rapid influenza tests are the only tests that can provide results while the patient is still present in the facility. Thus, the appropriate use of the tests, and interpretation of test results is critical to the treatment and control of influenza. More than a dozen rapid tests have been approved by the U.S. Food and Drug Administration and are in widespread use. The reliability of rapid influenza tests is influenced by the individual test product used and the setting. Reported sensitivities range from 10–75%; while the median specificities reported are 90–95%. Other factors influencing accuracy are the stage (or duration) of illness when the diagnostic specimen is collected, type and adequacy of the specimen collected, variability in user technique for specimen collection or assay performance, and disease activity in the community. Given these and other collective findings, it is imperative for public health and for response planning that CDC develops sector-specific guidance and effective outreach to the clinicians on appropriate use of RIDT in their practices.

Previous studies by CDC of outpatient facilities showed that clinical laboratories usually perform the rapid tests for emergency departments, and provide results for both inpatient and outpatient treatment. Thus, understanding the use of rapid influenza testing in clinical laboratories in both hospitals and outpatient settings, how the results are reported to emergency departments, treatment facilities and health departments, and what quality assurance practices are used will guide future efforts of the CDC to continue to develop and update appropriate influenza testing guidelines and sector-specific training materials for clinicians and improve health outcomes of the American public. In fact, CDC has developed a rapid testing course, ''Strategies for Improving Rapid Influenza Testing in Ambulatory Settings,'' with continuing education credits that is available to clinicians and laboratorians free of charge. We would like to ask survey respondents if they have taken the course, and ask them to rate its usefulness.

The survey covers basic laboratory demographic characteristics, specimen collection and processing, testing practices, reporting results to emergency departments and other treatment facilities, reporting results to health departments, quality assurance practices, and methods of receiving updated influenza-related information. The respondents would be clinical laboratory supervisors, nurses, and other clinicians. The majority of the questions request information about laboratory influenza testing practices. For this request, we have also added a question about whether or not the participants have taken the free CDC rapid influenza testing course and to rate its usefulness in their clinical setting.

No updated systematic study has been conducted to investigate how laboratories now use these tests, how they report results, or how they interact with outpatient treatment facilities, whether they have taken the free rapid influenza testing course, or how they rate the course. The survey will be conducted on a national sample of laboratories and clinical facilities, including those in outpatient facilities that perform rapid influenza diagnostic tests.

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)	Total burden hours
Clinical Laboratory Supervisors	Survey of Rapid Influenza Diagnostic Test Practices in Clinical Laboratories.	600	1	30/60	300
Nurses	Survey of Rapid Influenza Diagnostic Test Practices in Clinical Laboratories.	600	1	30/60	300
Other Clinicians	Survey of Rapid Influenza Diagnostic Test Practices in Clinical Laboratories.	600	1	30/60	300
Total					900

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. 2014–19828 Filed 8–20–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30-Day–14–0212]

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

The National Hospital Care Survey (NHCS) (OMB Control Number 0920–0212; Expires 04–30–2016)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on the extent and nature of illness and disability of the population of the United States. This three-year clearance request for NHCS includes the collection of all impatient and ambulatory Uniform Bill-04 (UB–04) claims data or electronic health record (EHR) data from a sample of 581 hospitals as well as the collection of additional clinical data from a sample of emergency department (ED) and outpatient department (OPD) visits (including ambulatory surgeries) through the abstraction of medical records.

NHCS integrates the former National Hospital Discharge Survey (OMB No. 0920–0212), the National Hospital Ambulatory Medical Care Survey (NHAMCS) (OMB No. 0920–0278) and the Drug-Abuse Warning Network (DAWN) (OMB No. 0930–0078, expired 12/31/2011) previously conducted by the Substance Abuse and Mental Health Services Administration's (SAMHSA). Integration of NHAMCS and DAWN into the NHCS is part of a broader strategy to improve efficiency by minimizing redundancy in data collection; broadening our capability to collect more relevant data on transitions of care; and identifying opportunities to exploit electronic and administrative clinical data systems to augment primary data collection.

NHCS consists of a nationally representative sample of 581 hospitals. These hospitals are currently being recruited, and participating hospitals are submitting all of their inpatient and ambulatory care patient data in the form of electronic UB–04 administrative claims or EHR data. Currently, hospital-level data are collected through a paper questionnaire and additional clinical data are being abstracted from a sample of visits to EDs and OPDs. This activity continues in 2014, and as more hospitals choose to send EHR data that includes clinical information, the need to conduct abstraction will be reduced.

This revision seeks approval to continue voluntary recruitment and data collection for NHCS, including inpatient, outpatient and emergency care; to revise the hospital-level questionnaire with additional items needed to improve weighting procedures; to combine the OPD and ambulatory surgery location patient record forms to more effectively capture ambulatory procedures in these settings; to continue collection of substance-involved ED visit data previously collected by DAWN; and to eliminate data collection from freestanding ambulatory surgery centers in order to concentrate efforts on hospital-based settings of care.

NHCS collects data items at the hospital, patient, inpatient discharge, and visit levels. Hospital-level data items include ownership, number of staffed beds, hospital service type, and EHR adoption. Patient-level data items are collected from both electronic data and abstraction components and include basic demographic information, personal identifiers, name, address, social security number (if available), and medical record number (if available). Discharge-level data are collected through the UB–04 claims or EHR data and include admission and discharge dates, diagnoses, diagnostic services, and surgical and non-surgical procedures. Visit-level data are collected through either EHR data, or for those hospitals submitting UB–04 claims, through the claims as well as through abstraction of medical records for a sample of visits. These visit-level data include reason for visit, diagnosis, procedures, medications, substances involved, and patient disposition.

NHCS users include, but are not limited to, CDC, Congressional Research Office, Office of the Assistant Secretary for Planning and Evaluation (ASPE), National Institutes of Health, American Health Care Association, Centers for Medicare & Medicaid Services (CMS), SAMHSA, Bureau of the Census, Office of National Drug Control Policy, state and local governments, and nonprofit organizations. Other users of these data include universities, research organizations, many in the private sector, foundations, and a variety of users in the media.

Data collected through NHCS are essential for evaluating health status of the population, for the planning of programs and policy to improve health care delivery systems of the Nation, for studying morbidity trends, and for research activities in the health field. Historically, data have been used extensively in the development and monitoring of goals for the Year 2000, 2010, and 2020 Healthy People Objectives.

There is no cost to respondents other than their time to participate. The total burden is 8,232 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avgerage burden per response (in hrs)
Hospital DHIM or DHIT	Initial Hospital Intake Questionnaire	160	1	1
Hospital CEO/CFO	Recruitment Survey Presentation	160	1	1

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avgerage burden per response (in hrs)
Hospital DHIM or DHIT	Prepare and transmit UB–04 for Inpatient and Ambulatory.	481	12	1
Hospital DHIM or DHIT	Prepare and transmit EHR for Inpatient and Ambulatory.	100	4	1
Hospital CEO/CFO	Annual Hospital Interview	581	1	2
Hospital CEO/CFO	Annual Ambulatory Hospital Interview	385	1	1.5

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. 2014–19825 Filed 8–20–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60-Day–14–0913]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public 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. To request more information on the below proposed project or to obtain a copy of the information collection plan and instruments, call 404–639–7570 or send comments to Leroy A. Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov*.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. 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 to be collected;(d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. Written comments should be received within 60 days of this notice.

Proposed Project

Evaluating Locally-Developed HIV Prevention Interventions for African-American MSM in Los Angeles (OMB Control No. 0920–0913, expires 01/15/2015)—Extension — National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Data on HIV cases reported in 33 U.S. states with HIV reporting indicate the burden of HIV/AIDS is most concentrated in the African-American population compared to other racial/ethnic groups. Of the 49,704 African-American males diagnosed with HIV between 2001 and 2004, 54% of these cases were among men who have sex with men (MSM). In Los Angeles County (LAC), the proportion of HIV/AIDS cases among African-American males attributable to male-to-male sexual transmission is even greater (75%).

In the absence of an effective vaccine, behavioral interventions represent one of the few methods for reducing high HIV incidence among African American MSM (AAMSM). Unfortunately, in the third decade of the epidemic, very few of the available HIV-prevention interventions for African-American populations have been designed specifically for MSM. In fact, until very recently, none of CDC's evidence-based HIV-prevention interventions had been specifically tested for efficacy in reducing HIV transmission among MSM of color. Given the conspicuous absence of (1) evidence-based HIV interventions and (2) outcome evaluations of existing AAMSM interventions, our collaborative team intends to address a glaring research gap by implementing a best-practices model of comprehensive program evaluation.

The purpose of this project is to test, in a real-world setting, the efficacy of an HIV transmission prevention intervention for reducing sexual risk among African-American men who have sex with men in Los Angeles County. The intervention is a three-session, group-level intervention that will provide participants with the information, motivation, and skills necessary to reduce their risk of transmitting or acquiring HIV.

The intervention is being evaluated using baseline, 3-month and 6-month follow up assessments. This project also intends to conduct in-depth qualitative interviews with a total of 36 men in order to assess the experiences with the intervention, elicit recommendations for improving the intervention, and to better understand the factors that place young African American MSM at risk for HIV.

CDC is requesting approval for a 1-year clearance to complete data collection. The data collection system involves screenings, limited locator information, contact information, baseline questionnaire, client satisfaction surveys, 3-month follow-up questionnaire, 6-month follow-up questionnaire, and case study interviews.

An estimated 160 men will be screened for eligibility in order to enroll 80 additional men to reach the desired

sample size of 528. The baseline and follow up questionnaires contain questions about participants' socio-demographic information, health and healthcare, sexual activity, substance use, and other psychosocial issues.

There is no cost to participants other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number responses per respondent	Average burden per respondent (in hours)	Total annual burden (in hours)
Prospective Participant	Outreach Recruitment Assessment (screener).	160	1	5/60	13
Prospective Participant	Limited Locator Form	160	1	5/60	13
Enrolled Participant	RCT Informed Consent Form	80	1	10/60	13
Enrolled Participant	Participant Contact Information Form.	80	1	10/60	13
Enrolled Participant	Baseline Questionnaire	80	1	1	80
Enrolled Participant	Client Satisfaction Survey	40	3	5/60	10
Enrolled Participant	3-month follow up Questionnaire	100	1	1	100
Enrolled Participant	6-month follow up Questionnaire	170	1	1	170
Enrolled Participant	Success Case Study Informed Consent Form.	10	1	10/60	2
Enrolled Participant	Success Case Study Interview	10	1	1.5	15
Total					429

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. 2014–19827 Filed 8–20–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60-Day–14–0278]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public 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. To request more information on the below proposed project or to obtain a copy of the information collection plan and instruments, call 404–639–7570 or send comments to Leroy A. Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. 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 to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. Written comments should be received within 60 days of this notice.

Proposed Project

National Hospital Ambulatory Medical Care Survey (NHAMCS) (OMB Control No. 0920–0278, expires 12/31/2014)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on ''utilization of health care'' in the United States. The National Hospital Ambulatory Medical Care Survey (NHAMCS) has been conducted annually since 1992. NCHS is seeking OMB approval to extend this survey for an additional three years and make minor modifications to survey questionnaires.

The purpose of NHAMCS is to meet the needs and demands for statistical information about the provision of ambulatory medical care services in the United States. Ambulatory services are rendered in a wide variety of settings, including physicians' offices and hospital outpatient and emergency departments. The target universe of the NHAMCS is in-person visits made to outpatient departments (OPDs), emergency departments (EDs), and ambulatory surgery locations (ASLs) of non-Federal, short-stay hospitals (hospitals with an average length of stay of less than 30 days) or those whose specialty is general (medical or surgical) or children's general.

NHAMCS was initiated to complement the National Ambulatory Medical Care Survey (NAMCS, OMB No. 0920–0234), which provides similar data concerning patient visits to physicians' offices. NAMCS and NHAMCS are the principal sources of

data on ambulatory care provided in the United States.

NHAMCS provides a range of baseline data on the characteristics of the users and providers of hospital ambulatory medical care. Data collected include patients' demographic characteristics, reason(s) for visit, providers' diagnoses, diagnostic services, medications, and disposition. These data, together with trend data, may be used to monitor the effects of change in the health care system, for the planning of health services, improving medical education, determining health care work force needs, and assessing the health status of the population.

Users of NHAMCS data include, but are not limited to, congressional offices, Federal agencies, state and local governments, schools of public health, colleges and universities, private industry, nonprofit foundations, professional associations, clinicians, researchers, administrators, and health planners. There are no costs to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Hospital Chief Executive Officer	Hospital Induction	458	1	1.5	687
Ancillary Service Executive	Ambulatory Unit Induction	1,750	1	15/60	438
Physician/Registered Nurse/Medical Record Clerk.	ED Patient Record form	33	100	7/60	385
Physician/Registered Nurse/Medical Record Clerk.	OPD Patient Record form	23	200	14/60	1,073
Physician/Registered Nurse/Medical Record Clerk.	AS Patient Record Form	23	100	7/60	268
Medical Record Clerk	Retrieving Patient Records (ED, OPD, and AS).	696	133	1/60	1,543
Ancillary Service Executive—Reabstraction.	Reabstraction Telephone Call	72	1	5/60	6
Medical Record Clerk—Reabstraction.	Pulling and re-filing Patient Records (ED, OPD, and AS).	72	10	1/60	12
Total					4,412

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. 2014–19826 Filed 8–20–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Job Search Assistance (JSA) Strategies Evaluation.

OMB No.: 0970–0440.

Description: The Administration for Children and Families (ACF) is proposing a data collection activity as part of the Job Search Assistance (JSA) Strategies Evaluation. The JSA evaluation will aim to determine which JSA strategies are most effective in moving TANF applicants and recipients into work. The impact study will randomly assign individuals to contrasting JSA approaches and then compare their employment and earnings to determine their relative effectiveness. The implementation study will describe services participants receive under each approach as well as provide operational lessons gathered directly from practitioners.

The proposed information collection activity consists of: (1) Baseline data collection: Collection of baseline data from TANF recipients at the time of enrollment in the study; (2) Implementation study site visits: Conducting site visits for the purpose of documenting the program context, program organization and staffing, the components JSA services, and other relevant aspects of the TANF program. During the visits, site teams will interview key administrators and line staff using a semi-structured interview guide; and (3) a JSA staff survey. This on-line survey, administered to TANF supervisory and line staff involved in JSA activities, will be used as part of the implementation study to systematically document program operations and the type of JSA services provided across the study sites.

Respondents: JSA program staff and individuals enrolled in the JSA study.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Total annual burden hours
Baseline information form	25,000	8,333	1	0.2	1667
JSA staff Survey	660	220	1	0.5	110
Implementation study site visits	300	100	1	1	100

Estimated Total Annual Burden Hours: 1,877

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *OPREinfocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV*, Attn: Desk Officer for the Administration for, Children and Families.

Karl Koerper,

Reports Clearance Officer.

[FR Doc. 2014–19798 Filed 8–20–14; 8:45 am]

BILLING CODE 4184–09–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review: Comment Request

Title: Evaluation of Tribal Health Profession Opportunity Grants (HPOG)—One Year Extension of Data Collection

OMB No.: 0970–0395

Description: The Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is proposing to continue information collection activities as part of the Evaluation of the Tribal Health Profession Opportunity Grants (HPOG). These information collection activities were approved by OMB in October 2011 for a three-year period (OMB clearance number 0970–0395). ACF is requesting a one-year extension of these activities. Through the extension of the information collection, ACF seeks to continue a comprehensive process and outcome evaluation to provide documentation and lessons learned about diverse programmatic approaches to health professions trainings for Tribal populations.

The goals of the Tribal HPOG evaluation are to: (1) Provide an in-depth, systematic analysis of program structure, implementation, and outcomes of the sites served by the five Tribal HPOG grantees funded in FY 2010, and (2) compare these data within and across grantees to generate hypotheses about the effectiveness of different program approaches for Tribal populations. These goals require collecting information from Tribal HPOG grantees and other program stakeholders on an annual basis. The information collection activities include in-person and telephone interviews and focus groups. A one-year extension of these activities will allow the evaluation to gather data from the grantees through the end of their grant period. Program operations data related to this effort will continue to be collected through a web-based performance management system under a separate information collection (OMB clearance number 0970–0394).

This **Federal Register** Notice provides the opportunity to provide comments to OMB on a proposed information collection activity for the evaluation of Tribal HPOG. All instruments included in this request have been previously approved. The burden represents continuing data collection into this period.

Respondents: Grantee and Partner Administrative Staff interview: Administrators of the Tribal HPOG program, workforce development, and TANF agencies; public and private university-based partners; and not-for profit organizations.

Program Implementation Staff interview: Instructors, trainers, and providers of program or supportive services.

Program Participant focus groups: Current program participants.

Employers interview: Local or regional employers at public or private companies or organizations that are partnering with the Tribal HPOG program or have employed program participants.

Program Completers interview: Program completers.

Program Non-completers interview: Individuals who did not complete the programs.

Annual Burden Estimates

The current information collection request is for a one-year period.

Instrument	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
New Burden for Previously Approved Instruments				
Grantee and partner administrative staff interview	35	1	1	35
Program implementation staff interview	117	1	1.5	176
Employer interview	52	1	.75	39
Program participant focus group or interview	117	1	1.35	158
Program completers interview	75	1	1	75
Program non-completers interview	20	1	.50	10

Estimated Total Annual Burden Hours: 493.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *OPREinfocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office

of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Karl Koerper,

OPRE Reports Clearance Officer.

[FR Doc. 2014–19829 Filed 8–20–14; 8:45 am]

BILLING CODE 4184–08–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request Generic Clearance for Satisfaction Surveys of Customers (CSR)

Summary: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the Center for Scientific Review (CSR), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To Submit Comments And For Further Information: To obtain a copy of the data collection plans and instruments, contact Dr. Mary Ann Guadagno, Center for Scientific Review, NIH, Room 3182, 6701 Rockledge Drive, Bethesda, MD 20892, or call non-toll-free number 301–435–1251 or email your request, including your address to: *guadagma@csr.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of publication of the notice.

Proposed Collection: Generic Clearance for Satisfaction Surveys of Customers (CSR), Extension—0925–0474—expiration date 10/31/2014, Center for Scientific Review (CSR), National Institutes of Health (NIH).

Need and Use of Information Collection: We will continue to collect information in surveys for use by the Center for Scientific Review management and personnel: (1) To assess the quality of the modified operations and processes now used by CSR to review grant applications; (2) To assess the quality of service provided by CSR to our customers; (3) To enable identification of the most promising biomedical research that will have the greatest impact on improving public health by using a peer review process that is fair, unbiased from outside influence, timely, and (4) To develop new modes of operation based on customer need and customer feedback about the efficacy of implemented modifications. These surveys, which will be both quantitative and qualitative, are designed to assess the quality of services we provide to our major external customers. Customers include the research scientists who submit applications for grant funding to NIH. Those grant applications are reviewed and ranked by the grant scientific peer review study groups' members and chairs. These surveys will almost certainly lead to quality improvement activities that will enhance and/or streamline CSR's operations. Our voluntary partners include current grant scientific peer review study groups' members and chairs.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 4,263.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hour
Adult scientific professionals (via Mail/Telephone/Internet)	7,925	1	30/60	3,963
Adult scientific professional (via focus groups)	200	1	90/60	300

Dated: August 15, 2014.

Mary Ann Guadagno,

Project Clearance Liaison, Center for Scientific Review, National Institutes of Health.

[FR Doc. 2014–19884 Filed 8–20–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Notice is hereby given of a change in the meeting of the National Heart, Lung, and Blood Advisory Council Meeting, September 9, 2014, 08:00 a.m. to 5:00 p.m., National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD, 20892, which was published in the **Federal Register** on July 18, 2014, 79 FR 42024.

This notice is being amended to change the time of the September 9, 2014 National Heart, Lung, and Blood Advisory Council Meeting start time to 12:30 p.m. and the change the location of the meeting to the National Institutes of Health, Building 35A, Porter Building, Room 640, 35A Convent Drive, Bethesda, MD 20892. The meeting is open to the public.

Dated: August 15, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–19790 Filed 8–20–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S. C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; In Vitro Metabolism and Metabolite Quantification (8919).

Date: September 17, 2014.

Time: 2:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Jose F. Ruiz, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, Room 4228, MSC 9550, 6001 Executive Blvd., Bethesda, MD 20892–9550, (301) 451–3086, *ruizjf@nida.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: August 15, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–19789 Filed 8–20–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Pain and Drug Abuse.

Date: September 16–17, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: John Bishop, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7844, Bethesda, MD 20892, (301) 408–9664, *bishopj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–14–073 Shared Instrumentation: Confocal Microscopy and Imaging.

Date: September 18, 2014.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott Georgetown, 1221 22nd Street NW., Washington, DC 20037.

Contact Person: Janet M Larkin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1102, MSC 7840, Bethesda, MD 20892, 301–806–2765, *larkinja@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Animal/Biological Resource Facilities.

Date: September 18–19, 2014.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting),

Contact Person: Andrea B Kelly, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7770, Bethesda, MD 20892, (301) 455–1761, *kellya2@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: August 15, 2014.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–19791 Filed 8–20–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute on Drug Abuse Special Emphasis Panel, August 28, 2014, 10:00 a.m. to August 28, 2014, 12:00 p.m., National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD, 20852 which was published in the **Federal Register** on July 25, 2014, 79 144 FR 2014–17673.

The date of the meeting was changed to September 11, 2014. The meeting is closed to the public.

Dated: August 15, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–19788 Filed 8–20–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2014–0576]

Merchant Marine Personnel Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: The Merchant Marine Personnel Advisory Committee will meet to discuss various issues related to the training and fitness of merchant marine personnel. This meeting will be open to the public.

DATES: The Merchant Marine Personnel Advisory Committee working groups will meet on September 10, 2014, from 8 a.m. until 4 p.m., and the full committee will meet on September 11, 2014, from 8 a.m. until 4 p.m. Written comments for distribution to committee members and for inclusion on the Merchant Marine Personnel Advisory Committee Web site must be submitted on or before August 27, 2014. Please note that this meeting may adjourn early if all business is finished.

ADDRESSES: The Committee will meet in the Newberry Auditorium of the Calhoon Marine Engineer Beneficial Association (MEBA) Engineering School, 27050 Saint Michaels Rd., Easton, MD 21601. For further information on the location of the

Calhoon MEBA Engineering School, please contact Ms. Janet Sadler at 410–822–9600, extension 370 or email *jsadler@mebaschool.org*.

For information on facilities or services for individuals with disabilities or to request special assistance, please contact Mr. Davis Breyer as indicated in the **FOR FURTHER INFORMATION CONTACT** paragraph below.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee and working groups as listed in the ''Agenda'' section below. Written comments must be identified by Docket No. USCG–2014–0576 and submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments (preferred method to avoid delays in processing).
- *Fax:* 202–493–2251.
- *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.
- *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. The telephone number is 202–366–9329.

Instructions: All submissions must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov,* enter the docket number in the ''Search'' field and follow the instructions on the Web site.

Public oral comment periods will be held each day. Speakers are requested to limit their comments to 3 minutes. Please note that the public oral comment periods may end before the prescribed ending time following the last call for comments. Contact Mr. Davis Breyer as indicated below to register as a speaker. This notice may be viewed in our online docket, USCG–2014–0576, at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Davis Breyer, Alternate Designated Federal Officer, telephone 202–372–1445, or at *davis.j.breyer@uscg.mil.* If you have any questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826 or 1–800–647–5527.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act,* 5 U.S.C. Appendix, Public Law 92–463, 86 Stat. 770 as amended.

The Merchant Marine Personnel Advisory Committee was established under the Secretary's authority in section 871 of the Homeland Security Act of 2002, Title 6, United States Code, section 451, and chartered under the provisions of the Federal Advisory Committee Act. The Committee acts solely in an advisory capacity to the Secretary of the Department of Homeland Security through the Commandant of the Coast Guard and the Director of Commercial Regulations and Standards on matters relating to personnel in the U.S. merchant marine, including but not limited to training, qualifications, certification, documentation, and fitness standards. The Committee will advise, consult with, and make recommendations reflecting its independent judgment to the Secretary.

A copy of all meeting documentation is available at *https://homeport.uscg.mil* by using these key strokes: Missions; Port and Waterways Safety; Advisory Committees; MERPAC; and then use the announcements key. Alternatively, you may contact Mr. Davis Breyer as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

Agenda

Day 1

The agenda for the September 10, 2014, meeting is as follows:

(1) The full committee will meet briefly to discuss the working groups' business/task statements, which are listed under paragraph 2(a)–(g) below.

(2) Working groups will address the following task statements which are available for viewing at *http://homeport.uscg.mil/merpac:*

(a) Task Statement 30, Utilizing Military Education, Training and Assessment for the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) and U.S. Coast Guard Certifications;

(b) Task Statement 81, Development of Competency Requirements for Vessel Personnel Working Within the Polar Regions;

(c) Task Statement 86, Recommendations on the Coast Guard's Advance Notice of Proposed Rulemaking for Training of Personnel and Manning on Mobile Offshore Units and Offshore Supply Vessels Engaged in U.S. Outer Continental Shelf Activities; and

(d) Task Statement 87, Review of Policy Documents Providing Guidance on the Implementation of the December 24, 2013 International Convention on Standards of Training, Certification and Watchkeeping and Changes to National Endorsements Rulemaking.

(3) Public comment period.

(4) Reports of working groups. At the end of the day, the working groups will report to the full committee on what was accomplished in their meetings. The full committee will not take action on these reports on this date. Any official action taken as a result of this working group meeting will be taken on day 2 of the meeting.

(5) Adjournment of meeting.

Day 2

The agenda for the September 11, 2014, committee meeting is as follows:

(1) Introduction;

(2) Remarks from Coast Guard Leadership;

(3) Swearing in of new members;

(4) Roll call of committee members and determination of a quorum;

(4) Designated Federal Officer announcements;

(5) Reports from the following working groups;

(a) Task Statement 30, Utilizing Military Education, Training and Assessment for the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) and U.S. Coast Guard Certifications;

(b) Task Statement 81, Development of Competency Requirements for Vessel Personnel Working Within the Polar Regions;

(c) Task Statement 86, Recommendations on the Coast Guard's Advance Notice of Proposed Rulemaking for Training of Personnel and Manning on Mobile Offshore Units and Offshore Supply Vessels Engaged in U.S. Outer Continental Shelf Activities; and

(d) Task Statement 87, Review of Policy Documents Providing Guidance on the Implementation of the December 24, 2013 International Convention on Standards of Training, Certification and Watchkeeping and Changes to National Endorsements Rulemaking.

(6) Other items for discussion:

(a) Report on the Implementation of the 2010 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping;

(b) Report on National Maritime Center activities from the National Maritime Center Commanding Officer, such as the net processing time it takes for mariners to receive their credentials after application submittal;

(c) Report on Mariner Credentialing Program Policy Division activities, such as its current initiatives and projects;

(d) Report on International Maritime Organization (IMO)/International Labor Organization (ILO) issues related to the merchant marine industry;

(e) How to Fill out Travel Claims; and

(f) Briefings about on-going Coast Guard projects related to personnel in the U.S. merchant marine.

(7) Public comment period/ presentations.

(8) Discussion of working group recommendations. The Committee will review the information presented on each issue, deliberate on any recommendations presented by the working groups and approve/formulate recommendations for the Department's consideration. Official action on these recommendations may be taken on this date.

(9) Closing remarks/plans for next meeting.

(10) Adjournment of meeting.

A copy of all meeting documentation is available at *http://homeport.uscg.mil/merpac*. Alternatively, you may contact Mr. Davis Breyer as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

Dated: August 8, 2014.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2014–19844 Filed 8–20–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2014–0576]

Merchant Marine Personnel Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Notice of Federal Advisory Committee Working Group Meeting.

SUMMARY: A working group of the Merchant Marine Personnel Advisory Committee will meet to review and work on Task Statement 87, concerning review of policy documents providing guidance on the implementation of the December 24, 2013 International Convention on Standards of Training, Certification and Watchkeeping and changes to national endorsements rulemaking. This meeting will be open to the public.

DATES: The Merchant Marine Personnel Advisory Committee working group will meet on September 9, 2014, from 8 a.m. until 4 p.m. Written comments for distribution to committee members and for inclusion on the Merchant Marine Personnel Advisory Committee Web site must be submitted on or before August 27, 2014. Please note that this working group is expected to continue its discussions on September 10, 2014, as part of the Merchant Marine Personnel Advisory Committee meeting announced in a separate notice in the **Federal Register** under Docket No. USCG–2014–0576, but may adjourn early if all business is finished.

ADDRESSES: The working group will meet in the Luebbe conference room of the Calhoon Marine Engineer Beneficial Association (MEBA) Engineering School, 27050 Saint Michaels Rd., Easton, MD 21601. For further information on the location of the Calhoon MEBA Engineering School, please contact Ms. Janet Sadler at 410–822–9600, extension 370 or email *jsadler@mebaschool.org*.

For information on facilities or services for individuals with disabilities or to request special assistance, please contact Mr. Davis Breyer as indicated in the **FOR FURTHER INFORMATION CONTACT** paragraph below. To facilitate public participation, we are inviting public comment on the issue to be considered by the working group as listed in the ''Agenda'' section below. Written comments must be identified by Docket No. USCG–2014–0576 and submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments (preferred method to avoid delays in processing).
- *Fax:* 202–493–2251.
- *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.
- *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. The telephone number is 202–366–9329.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov,* enter the docket number in the ''Search'' field and follow the instructions on the Web site.

A public oral comment period will be held during the meeting and speakers are requested to limit their comments to 3 minutes. Please note that the public oral comment period may end before the prescribed ending time following the last call for comments. Contact Mr. Davis Breyer as indicated below to register as a speaker. This notice may be viewed in our online docket, USCG–2014–0576, at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. Davis Breyer, Alternate Designated Federal Officer, telephone 202–372–1445, or at *davis.j.breyer@uscg.mil.* If you have any questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826 or 1–800–647–5527.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act,* 5 U.S.C. Appendix, Public Law 92–463, 86 Stat 770 as amended.

The Merchant Marine Personnel Advisory Committee was established under the Secretary's authority in section 871 of the Homeland Security Act of 2002, Title 6, United States Code, section 451, and chartered under the provisions of the Federal Advisory Committee Act. The Committee acts solely in an advisory capacity to the Secretary of the Department of Homeland Security through the Commandant of the Coast Guard and the Director of Commercial Regulations and Standards on matters relating to personnel in the U.S. merchant marine, including but not limited to training, qualifications, certification, documentation, and fitness standards. The Committee will advise, consult with, and make recommendations reflecting its independent judgment to the Secretary.

A copy of all meeting documentation is available at *https://homeport.uscg.mil* by using these key strokes: Missions; Port and Waterways Safety; Advisory Committees; MERPAC; and then use the announcements key. Alternatively, you may contact Mr. Davis Breyer as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

Agenda

The agenda for the September 9, 2014, working group meeting is as follows:

(1) The working group will review, discuss and develop recommendations regarding Task Statement 87, Review of Policy Documents Providing Guidance on the Implementation of the December 24, 2013 International Convention on Standards of Training, Certification and Watchkeeping and Changes to National Endorsements Rulemaking;

(2) Public comment period;

(3) The working group will finalize proposed recommendations for the full committee to consider with regards to Task Statement 87, concerning Policy Documents Providing Guidance on the Implementation of the December 24, 2013 International Convention on Standards of Training, Certification and Watchkeeping and Changes to National Endorsements Rulemaking;

(4) Adjournment of meeting.

A copy of all meeting documentation is available at *http://homeport.uscg.mil/merpac*. Alternatively, you may contact Mr. Davis Breyer as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

Dated: August 8, 2014.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2014–19845 Filed 8–20–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0067]

Agency Information Collection Activities: Application for Asylum and for Withholding for Removal, Form I–589; Extension, Without Change, of a Currently Approved Collection

ACTION: 60-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (i.e. the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until October 20, 2014.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0067 in the subject box, the agency name and Docket ID USCIS–2007–0034. To avoid duplicate submissions, please use only one of the following methods to submit comments:

(1) *Online.* You may access the **Federal Register** Notice and submit comments via the Federal eRulemaking Portal Web site by visiting *www.regulations.gov.* In the search box either copy and paste, or type in, the e-Docket ID number USCIS–2007–0034. Click on the link titled Open Docket Folder for the appropriate Notice and supporting documents, and click the Comment Now tab to submit a comment;

(2) *Email.* Submit comments to *USCISFRComment@uscis.dhs.gov;*

(3) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

SUPPLEMENTARY INFORMATION:

Comments

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Asylum and for Withholding for Removal.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–589; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I–589 is necessary to determine whether an alien applying for asylum and/or withholding of removal in the United States is classified as refugee, and is eligible to remain in the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–589 is approximately 157,372 and the estimated hour burden per response is 12 hours per response; and the estimated number of respondents providing biometrics is 97,152 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is approximately 2,002,132 hours.

If you need a copy of the information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory

Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number 202–272–8377.

Dated: August 14, 2014.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2014–19815 Filed 8–20–14; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0072]

Agency Information Collection Activities: Application for Suspension of Deportation or Special Rule Cancellation of Removal (Pursuant to Section 203 of Public Law 105–100, NACARA), Form I–881; Extension, Without Change, of a Currently Approved Collection

ACTION: 60-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (i.e. the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until October 20, 2014.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0072 in the subject box, the agency name and Docket ID USCIS–2008–0077. To avoid duplicate submissions, please use only one of the following methods to submit comments:

(1) *Online.* You may access the **Federal Register** Notice and submit comments via the Federal eRulemaking Portal Web site by visiting *www.regulations.gov.* In the search box either copy and paste, or type in, the e-Docket ID number USCIS–2008–007. Click on the link titled Open Docket Folder for the appropriate Notice and supporting documents, and click the Comment Now tab to submit a comment;

(2) *Email.* Submit comments to *USCISFRComment@uscis.dhs.gov;*

(3) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

SUPPLEMENTARY INFORMATION:

Comments

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Suspension of Deportation or Special Rule Cancellation of Removal (Pursuant to Section 203 of Public Law 105–100, NACARA).

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–881; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households. Form I–881 is used by a nonimmigrant to apply for suspension of deportation or special rule cancellation of removal. The information collected on this form is necessary in order for USCIS to determine if it has jurisdiction over an individual applying for this release as well as to elicit information regarding the eligibility of an individual applying for release.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–881 is approximately 1,197 and the estimated hour burden per response is 12 hours per response; and the estimated number of respondents providing biometrics is 1,674 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is approximately 16,323 hours.

If you need a copy of the information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number 202–272–8377.

Dated: August 14, 2014.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2014–19817 Filed 8–20–14; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0064]

Agency Information Collection Activities: OMB–25, Special Immigrant Visas for Fourth Preference Employment-Based Broadcasters; Extension, Without Change, of a Currently Approved Collection

ACTION: 60-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (i.e. the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until October 20, 2014.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0064 in the subject box, the agency name and Docket ID USCIS–2006–0012. To avoid duplicate submissions, please use only one of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal Web site at *www.regulations.gov* under e-Docket ID number USCIS–2006–0012;

(2) *Email.* Submit comments to *USCISFRComment@uscis.dhs.gov;*

(3) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW, Washington, DC 20529–2140.

SUPPLEMENTARY INFORMATION:

Comments

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Special Immigrant Visas for Fourth Preference Employment-Based Broadcasters.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* No Agency Form Number; File No. OMB–25; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or households.* The information collected via the submitted supplemental documentation (as contained in 8 CFR 204.13(d)) will be used by the USCIS to determine eligibility for the requested classification as fourth preference Employment-based immigrant broadcasters.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection OMB–25 is 100 and the estimated hour burden per response is 2 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 200 hours.

If you need a copy of the information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number 202–272–8377.

Dated: August 15, 2014.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2014–19819 Filed 8–20–14; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0121]

Agency Information Collection Activities: Trusted Traveler Programs and U.S. APEC Business Travel Card

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: Trusted Traveler Programs and U.S. APEC Business Travel Card. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain

comments from the public and affected agencies.

DATES: Written comments should be received on or before October 20, 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 cost burden to respondents or record keepers from the collection of information (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: Trusted Traveler Programs and U.S. APEC Business Travel Card.

OMB Number: 1651–0121.

Form Numbers: 823S (SENTRI) and 823F (FAST).

Abstract: This collection of information is for CBP's Trusted Traveler Programs, including the Secure Electronic Network for Travelers Rapid Inspection (SENTRI), which allows expedited entry at specified land border ports of entry along the U.S.-Mexico border; the Free and Secure Trade (FAST) Program, which provides expedited border processing for known, low-risk commercial drivers; and Global Entry, which allows pre-approved, low-risk air travelers expedited clearance upon arrival into the United States.

The purpose of all of these programs is to provide prescreened travelers expedited entry into the United States. The benefit to the traveler is less time spent in line waiting to be processed. These Trusted Traveler Programs are provided for in 8 CFR 235.7 and 235.12.

This information collection also includes the U.S. Asia-Pacific Economic Cooperation (APEC) Business Travel Card (ABTC) Program, which is a voluntary program that allows U.S. citizens to use fast-track immigration lanes at airports in the 20 other APEC member countries. This program is mandated by the Asia-Pacific Economic Cooperation Business Travel Cards Act of 2011, Public Law 112–54, and provided for by 8 CFR 235.13 and 8 CFR 103.7(b)(1)(ii)(N).

The data is collected on the applications and kiosks for the Trusted Traveler Programs. Applicants may apply to participate in these programs by using the Global On-line Enrollment System (GOES) at *https://goes-app.cbp.dhs.gov.* Applicants may also apply for SENTRI and FAST using paper forms (CBP Form 823S for SENTRI and CBP Form 823F for FAST) available at *http://www.cbp.gov* or at Trusted Traveler Enrollment Centers.

After arriving at the Federal Inspection Services area of the airport, participants in Global Entry can undergo a self-service inspection process using a Global Entry kiosk. During the self-service inspection, participants have their photograph and fingerprints taken, submit identifying information, and answer several questions about items they are bringing into the United States. When using the Global Entry kiosks, participants are required to declare all articles being brought into the United States pursuant to 19 CFR 148.11.

Current Actions: This submission is being made to extend the expiration date with no change to the burden hours. There are no changes to the information collected.

Type of Review: Extension (without change).

Affected Public: Individuals and Businesses.

SENTRI (Form 823S)

Estimated Number of Annual Respondents: 46,000.

Estimated Number of Total Annual Responses: 46,000.

Estimated Time per Response: 40 minutes.

Estimated Total Annual Burden Hours: 30,820.

Estimated Annual Costs: $5,623,500.

FAST (Form 823F)

Estimated Number of Annual Respondents: 28,910.

Estimated Number of Total Annual Responses: 28,910.

Estimated Time per Response: 40 minutes.

Estimated Total Annual Burden Hours: 19,370.

Estimated Annual Costs: $1,445,500.

Global Entry

Estimated Number of Annual Respondents: 630,125.

Estimated Number of Total Annual Responses: 630,125.

Estimated Time per Response: 40 minutes.

Estimated Total Annual Burden Hours: 422,184.

Estimated Annual Costs: $63,012,500.

ABTC

Estimated Number of Annual Respondents: 4,250.

Estimated Number of Total Annual Responses: 4,250.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 723.

Estimated Annual Costs: $297,500.

Global Entry Kiosks

Estimated Number of Annual Respondents: 2,200,000.

Estimated Number of Total Annual Responses: 2,200,000.

Estimated Time per Response: 1 minute.

Estimated Total Annual Burden Hours: 35,200.

Dated: August 18, 2014.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2014–19841 Filed 8–20–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5756–N–32]

60-Day Notice of Proposed Information Collection: Certificate of Housing Counseling: Homeownership and Certificate of Housing Counseling: Home Retention

AGENCY: Office of Housing Counseling, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the

Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date: October 20, 2014.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–5564 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Betsy Cromwell, Office of Housing Counseling, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Betsy Cromwell, at *Betsy.M.Cromwell@hud.gov* or telephone 202–708–0317, x 2628. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Cromwell.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Certificate of Housing Counseling: Homeownership and Certificate of Housing Counseling: Home Retention.

OMB Approval Number: 2502—New.

Type of Request: New collection.

Form Number: 9911, 9912.

Description of the need for the information and proposed use: Counseling certificates will provide proof to lenders and other interested parties that clients have received counseling from a HUD-approved counseling agency on the subject matter, either homeownership or home retention counseling. The certificates may be required to access certain loan programs or benefits.

Respondents: 8,000.

Estimated Number of Respondents: Individual and Households.

Estimated Number of Responses: 832,000.

Frequency of Response: Quarterly.

Average Hours per Response: 15 mins.

Total Estimated Burdens: 208,000.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 15, 2014.

Laura M. Marin,

Associate General Deputy Assistant Secretary for Housing-Associate Deputy Federal Housing Commissioner.

[FR Doc. 2014–19894 Filed 8–20–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5753–N–05]

60-Day Notice of Proposed Information Collection: Recordkeeping Requirements Under the Uniform Relocation Assistance and Real Property Acquisition Policies Act

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of proposed information collection.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* October 20, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Bryan O'Neill, Relocation Specialist, Relocation and Real Estate Division, CGHR, Department of Housing and Urban Development, 451 Seventh Street Southwest, Rm 7168, Washington, DC 20410; email *Bryan.J.O'Neill@HUD.gov,* (202) 708–2684. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Mr. O'Neill.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Relocation and Real Property Acquisition Recordkeeping Requirements under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA).

OMB Approval Number: 2506–0121.

Type of Request: Extension of currently approved collection.

Form Number: None.

Description of the need for the information and proposed use: HUD funded projects involving the acquisition of real property or the displacement of persons as a direct result of acquisition, rehabilitation or demolition are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA). Agencies receiving HUD funding for such projects are required to document

their compliance with applicable requirements of the URA and its implementing government-wide regulations at 49 CFR Part 24.

Respondents: State, local or tribal government.

Estimated Number of Respondents: 2000.

Estimated Number of Responses: 80,000.

Frequency of Response: 40.

Average Hours per Response: 3.5.

Total Estimated Burdens: 280,000.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 13, 2014.

Clifford Taffet,

Assistant Secretary for Community Planning and Development (Acting).

[FR Doc. 2014–19921 Filed 8–20–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–66]

30-Day Notice of Proposed Information Collection: Public Housing Admissions/Occupancy Policy

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* September 22, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on June 16, 2014.

A. Overview of Information Collection

Title of Information Collection: Public Housing Admissions/Occupancy Policy.

OMB Approval Number: 2577–0220.

Type of Request: Extension.

Form Number: Not Applicable.

Description of the need for the information and proposed use: Statute requires HUD to ensure the low-income character of public housing projects and to assure that sound management practices will be followed in the operation of the project. Public Housing Agencies (PHAs) enter into an Annual Contribution Contract (ACC) with HUD to assist low-income tenants. HUD regulations, Part 960, provide policies and procedures for PHAs to administer the low-income housing program for admission and occupancy. Statutory and regulatory authority grants PHAs flexibility to structure admission and occupancy policies. PHAs must develop and keep on file the admissions and continued occupancy policies to meet local preferences. PHA compliance will support the statute; and, HUD can ensure that the low-income character of the project and sound management practices will be followed.

Number of respondents (PHAs)	Responses annually	** Hours per response	Total annual burden hours	Cost per hour	Total annual cost
3,278	3,278	60	196,680	$18.30	$3,599,244

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 18, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–19893 Filed 8–20–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5756–N–30]

60-Day Notice of Proposed Information Collection: Model Manufactured Home Installation Program Rules and Regulations

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* October 20, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Pamela Beck Danner, Administrator, Office of Manufactured Housing Programs, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708–6423. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Danner.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Model Manufactured Home Installation Program Rules and Regulations.

OMB Approval Number: 2502–0578.

Type of Request: Extension.

Form Number: HUD–305, HUD–306, HUD–308, HUD–309, HUD–312.

Description of the need for the information and proposed use: The Manufactured Housing Installation Program establishes regulations for the administration of an installation program and establishes a new manufactured housing installation program for States that choose not to implement their own programs. HUD uses the information collected for the enforcement of the Model Installation Standards in each State that does not have an installation program established by State law to ensure that the minimum criteria of an installation program are met.

Respondents: Program evaluation.

Estimated Number of Respondents: 6,796.

Estimated Number of Responses: 265,761.

Frequency of Response: Annually.

Average Hours per Response: 8.

Total Estimated Burdens: 148,815.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 15, 2014.

Laura M. Marin,

Associate General Deputy Assistant Secretary for Housing—Associate Deputy Federal Housing Commissioner.

[FR Doc. 2014–19896 Filed 8–20–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5756–N–29]

60-Day Notice of Proposed Information Collection: Multifamily Insurance Benefits Claims Package

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* October 20, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Program Contact, Director, Office of Multifamily, Multifamily Claims Branch, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, email Steve Trojan at *steve.trojan@hud.gov,* or telephone (202) 402–2823. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Multifamily Insurance Benefits Claims Package.

OMB Approval Number: 2502–0418.

Type of Request: Extension of currently approved collection.

Forms Number: HUD–2741, HUD–2742, HUD–2744A, HUD–2744B, HUD–2744C, HUD–2744D, HUD–2744E, HUD–434, HUD–1044D.

Description of the need for the information and proposed use: We need this information to pay a claim. This has to do with all the backup paperwork to pay a complete and accurate claim for the mortgagee company.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 125.

Estimated Number of Responses: 125.

Frequency of Response: On occasion.

Average Hours per Response: 4.25.

Total Estimated Burdens: 531.25.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 15, 2014.

Laura M. Marin,

Associate General Deputy Assistant Secretary for Housing-Associate Deputy Federal Housing Commissioner.

[FR Doc. 2014–19895 Filed 8–20–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[Docket No. ONRR–2012–0003; DS63600000 DR2PS0000.PX8000 145D0102R2]

U.S. Extractive Industries Transparency Initiative Multi-Stakeholder Group (USEITI MSG) Advisory Committee

AGENCY: Policy, Management and Budget, Interior.

ACTION: Notice.

SUMMARY: Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior is renewing the United States Extractive Industries Transparency Initiative (USEITI) Federal Advisory Committee (Committee). The Committee was established to advise the Department on the implementation the Extractive Industries Transparency Initiative (EITI), which requires governments to publicly disclose their revenues from oil, gas, and mining assets, and for companies to make parallel disclosures regarding payments. The Committee serves as the Multi-Stakeholder Group and its duties include consideration and fulfillment of the tasks required to achieve EITI compliant status. The Committee reports to the Secretary of the Interior through the Deputy Assistant Secretary, Natural Resources Revenue Management.

FOR FURTHER INFORMATION CONTACT: Ms. Kim Oliver, USEITI Secretariat; 1849 C Street NW., MS–4211, Washington, DC 20240. You may also contact the USEITI Secretariat via email at *useiti@ios.doi.gov,* by phone at (202) 208–0272, or by fax at (202) 513–0682.

SUPPLEMENTARY INFORMATION: The U.S. Department of the Interior established the USEITI Advisory Committee (Committee) on July 26, 2012, to serve as the initial USEITI multi-stakeholder group. More information about the Committee, including its charter, can be found at *www.doi.gov/eiti/faca*.

Certification

Certification Statement: I hereby certify that the U.S. Extractive Industries Transparency Initiative (USEITI) Advisory Committee is necessary, is in the public interest, and is established under the authority of the Secretary of the Interior, in support of the Open Government Partnership and the commitment in the United States' National Action Plan to implement the Extractive Industries Transparency Initiative.

Dated: August 13, 2014.

Sally Jewell,

Secretary of the Interior.

[FR Doc. 2014–19898 Filed 8–20–14; 8:45 am]

BILLING CODE 4310–T2–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2014–N163] [FXES11130200000–145–FF02ENEH00]

Receipt of Incidental Take Permit Applications for Transfer of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications; request for public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received two applications for transfer of permits associated with two habitat conservation plans issued under the Endangered Species Act (Act). The new landowners have agreed to assume the responsibilities of, and to be bound by, the terms and conditions of the original permits. We intend to transfer these permits as long as the applicants meet issuance criteria under the Act and all other requirements for holding a permit.

DATES: To ensure consideration, written comments on the transfer of permits must be received on or before September 22, 2014.

ADDRESSES: You may obtain copies of these applications and submit comments by one of the following methods. Please refer to the respective permit number for each application when requesting documents or submitting comments. You may also request copies of the habitat conservation plans and environmental assessments on the Web site *ecos.fws.gov,* but we are not accepting comments on these final, approved documents.

- *U.S. Mail:* U.S. Fish and Wildlife Service, Division of Endangered Species—HCP Permits, P.O. Box 1306, Room 6034, Albuquerque, NM 87103.
- *Electronically: fw2_hcp_permits@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Marty Tuegel, Branch Chief, Environmental Review, P.O. Box 1306, Room 6034, Albuquerque, NM 87103; 505–248–6651.

SUPPLEMENTARY INFORMATION: Under the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*), this notice advises the public that we, the U.S. Fish and Wildlife Service (Service), have analyzed the impacts to

the human environment related to the transfer of incidental take permits (ITPs) under section 10(a)(1)(B) of the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*) to applicants who agree to fully implement the respective approved habitat conservation plans (HCPs) and be bound by the conditions in the original permits associated with those HCPs.

Applications Available for Review

Please refer to the appropriate permit number (e.g., Permit No. TE–123456) when requesting application documents and when submitting comments. Applications and other information the applicants have submitted is available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

Original environmental assessments (EAs)/HCPs are available for review at *ecos.fws.gov.* However, we are not accepting comments on these final approved documents.

Permit TE–024619

Applicant: Solidago, Austin, TX.

Applicant requests transfer of the permit issued to The Crossings on July 27, 2000, for incidental take of the endangered golden-cheeked warbler (*Setophaga* [=*Dendroica*] *chrysoparia*) associated with the *Environmental Assessment and Habitat Conservation Plan for Issuance of an Endangered Species Act Section 10(a)(1)(B) Permit for the Incidental Take of the Golden-cheeked Warbler during Construction and Operation of a Mixed-use Development on a Portion of the Crossings Property, Austin, Travis County, Texas.*

Permit TE–005497

Applicant: Kendel Martin, Austin, TX.

Applicant requests transfer of the permit issued to Ralph J. Lake, Jr. (originally issued to Mark A. and Brenda J. Hogan—February 26, 1999, and transferred to Ralph Lake, Jr., on February 21, 2006) for incidental take of the endangered golden-cheeked warbler (*Setophaga* [=*Dendroica*] *chrysoparia*) associated with the *Environmental Assessment/Habitat Conservation Plan for Issuance of an Endangered Species Section 10(a)(1)(B) Permit for the Incidental Take of the Golden-cheeked Warbler during Construction of a Single Family Residence on 10.117 acres (Tax parcel ID 013427) on City Park Road, Travis County, Texas.* A conservation easement on the balance of the property guarantees preservation of habitat for the golden-cheeked warbler in perpetuity.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. 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 request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Dated: August 5, 2014.

Joy E. Nicholopoulos,

Acting Regional Director, Southwest Region.

[FR Doc. 2014–19796 Filed 8–20–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[FXRS126108DESTO 134F1611MD FF08RDSC00; N–54955]

Public Land Order No. 7828; Extension of Public Land Order No. 7070; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order extends the duration of the withdrawal created by Public Land Order No. 7070, as corrected, for an additional 20-year period. The extension is necessary for continued protection of the Desert National Wildlife Range in Clark and Lincoln Counties, Nevada, which would otherwise expire on August 3, 2014.

DATES: *Effective Date:* August 4, 2014.

FOR FURTHER INFORMATION CONTACT: Vanessa L. Hice, Assistant Field Manager, Bureau of Land Management Las Vegas Field Office at 702–515–5000, or email: *vhice@blm.gov.* Persons who use a telecommunications devise for the deaf (TDD) may call the Federal Information Relay Services (FIRS) at 1–800–877–8339 to reach the BLM contact person. 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 purpose for which the withdrawal was first made requires this extension to continue protection of the Desert National Wildlife Range wildlife habitat and unique resource values within the area. The withdrawal extended by this order will now expire on August 3, 2034, unless as a result of a review conducted prior to the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be further extended.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, it is ordered as follows:

Public Land Order No. 7070 (59 FR 28790 (1994)), with respect to 768,997 acres of public mineral estate described in 78 FR 58554 (2013), which withdrew 769,543 acres of public mineral estate from location and entry under the United States mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws, is hereby extended for an additional 20-year period until August 3, 2034.

Dated: July 20, 2014.

Janice M. Schneider,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 2014–19846 Filed 8–20–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[XXXL8069F.LLAZG02000.L71220000.EU0000.LVTFA1158500;AZA–36547]

Notice of Realty Action: Direct Sale of Public Lands in Pima County, AZ; Correction.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action; Correction.

SUMMARY: The Bureau of Land Management (BLM) published a notice in the **Federal Register** of July 5, 2013, concerning a ''Direct Sale of Public Lands in Pima County, AZ.'' That notice

cited an erroneous serial number in its heading. This notice corrects that error.

FOR FURTHER INFORMATION CONTACT: Linda Dunlavey, Realty Specialist, BLM, Tucson Field Office, 3201 East Universal Way, Tucson, Arizona 85756; telephone 520–258–7260 or email *ldunlavey@blm.gov.*

Correction

In the **Federal Register** of July 5, 2013, in **Federal Register** document 78–40503, on page 40503, at the bottom of the first column, within the fourth line of the notice, correct the BLM's serial number to read AZA–36547 from the incorrect serial number AZA–281317–01.

Viola Hillman,

Tucson Field Manager.

[FR Doc. 2014–19848 Filed 8–20–14; 8:45 am]

BILLING CODE 4310–32–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–926]

Certain Marine Sonar Imaging Systems, Products Containing the Same, and Components Thereof; Notice of Institution of Investigation; Institution of Investigation Pursuant to 19 U.S.C. 1337

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 18, 2014, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Johnson Outdoors Inc. of Racine, Wisconsin and Johnson Outdoors Marine Electronics, Inc. of Eufaula, Alabama. A supplement to the complaint was filed on July 25, 2014. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain marine sonar imaging systems, products containing the same, and components thereof by reason of infringement of certain claims of U.S. Patent No. 7,652,952 (''the '952 patent''); U.S. Patent No. 7,710,825 (''the '825 patent''); and U.S. Patent No. 7,755,974 (''the '974 patent''). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. 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 at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

FOR FURTHER INFORMATION CONTACT: The Office of the Secretary, Docket Services Division, U.S. International Trade Commission, telephone (202) 205–1802.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2014).

Scope of Investigation: Having considered the complaint and supplement, the U.S. International Trade Commission, on August 14, 2014, *Ordered That*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain marine sonar imaging systems, products containing the same, and components thereof by reason of infringement of one or more of claims 1, 2, 17, 25, 26, 31, 32, 35, 36, 41–43, 53, and 56 of the '952 patent; claims 1, 5, 7, 8, 21, 22, 24, 25, 28, and 29 of the '825 patent; and claims 14, 18, 21–23, 25, and 33 of the '974 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Johnson Outdoors Inc., 555 Main Street, Racine, WI 53403.

Johnson Outdoors Marine Electronics, Inc., 678 Humminbird Lane, Eufaula, AL 36027.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Garmin International, Inc., 1200 East 151st Street, Olathe, KS 66062.

Garmin North America, Inc., 1200 East 151st Street, Olathe, KS 66062.

Garmin USA, Inc., 1200 East 151st Street, Olathe, KS 66062.

Garmin Corporation, No. 68, Zhangshu 2nd Road, Xizhi District, New Taipei City 221, Taiwan.

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: August 15, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–19809 Filed 8–20–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–522 and 731–TA–1258 (Preliminary)]

Certain Passenger Vehicle and Light Truck Tires From China

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from China of certain passenger vehicle and light truck tires, provided for in subheadings 4011.10.10, 4011.10.50, 4011.20.10, and 4011.20.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV) and are allegedly subsidized by the Government of China.[2]

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On June 3, 2014, a petition was filed with the Commission and Commerce by the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (''USW''), Pittsburgh, PA, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV and subsidized imports of certain passenger vehicle and light truck tires from China. Accordingly, effective June 3, 2014, the Commission instituted countervailing duty investigation No. 701–TA–522 and antidumping duty investigation No. 731–TA–1258 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of June 9, 2014 (79 FR 32994). The conference was held in Washington, DC, on June 24, 2014, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on August 15, 2014. The views of the Commission are contained in USITC Publication 4482 (August 2014), entitled *Certain Passenger Vehicle and Light Truck Tires from China: Investigation Nos. 701–TA–522 and 731–TA–1258 (Preliminary).*

By order of the Commission.

Issued: August 15, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–19797 Filed 8–20–14; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Vice Chairman Dean A. Pinkert and Commissioners Irving A. Williamson and Rhonda K. Schmidtlein determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of certain passenger vehicle and light truck tires from China. Chairman Meredith M. Broadbent and Commissioners David S. Johanson and F. Scott Kieff determine that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of certain passenger vehicle and light truck tires from China.

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–925]

Certain Communications or Computing Devices and Components Thereof Institution of Investigation Pursuant to 19 U.S.C. 1337

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 16, 2014, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Enterprise Systems Technologies S.a.r.l. of Luxembourg. Letters supplementing the complaint were filed on July 30 and August 7, 2014. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain communications or computing devices, and components thereof by reason of infringement of certain claims of U.S. Patent No. 5,870,610 (''the '610 patent''); U.S. Patent No. 6,594,366 (''the '366 patent''); U.S. Patent No. 6,691,302 (''the '302 patent''); and U.S. Patent No. 7,454,201 (''the '201 patent''). The complaint further alleges that an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. 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 at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2014).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on August 14, 2014, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain communications or computing devices, and components thereof by reason of infringement of one or more of claims 1, 5, 7–11, and 13 of the '201 patent; claims 8–17 of the '366 patent; claims 1–11, and 13–16 of the '302 patent; and claims 13–15 and 17 of the '610 patent, and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337;

(2) Pursuant to Commission Rule 210.50(b)(1), 19 CFR 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties and other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors, 19 U.S. C. 1337(d)(1), (f)(1), (g)(1);

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Enterprise Systems Technologies S.a.r.l., 296–298 route de Longwy, Grand-Duche de Luxembourg, Grand-Duche de Luxembourg.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Apple Inc., One Infinite Loop, Cupertino, CA 95014.

Cirrus Logic Inc., 800 West 6th St., Austin, TX 78701.

HTC Corporation, 23 Xinghua Road, Taoyuan, 330, Taiwan.

HTC America, Inc., 13920 SE Eastgate Way, Suite 400, Bellevue, WA 98005.

LG Electronics, Inc., LG Twin Towers, 20, Yoido-dong, Youngdungpo-gu, Seoul, 157–721, Republic of Korea.

LG Electronics U.S.A., Inc., 1000 Sylvan Ave., Englewood Cliffs, NJ 07632.

LG Electronics MobileComm U.S.A, Inc., 10101 Old Grove Road, San Diego, CA 92131.

Samsung Electronics Co., Ltd, 1320–10, Seocho 2-dong Seocho-gu, Seoul, Republic of Korea.

Samsung Electronics America, Inc., 105 Challenger Rd., Ridgefield Park, NJ 07660.

Samsung Telecommunications America, L.L.C., 1301 East Lookout Drive, Richardson, TX 75082.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: August 15, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–19801 Filed 8–20–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0016]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Application for Registration of Firearms Acquired by Certain Government Entities

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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.

DATES: Comments are encouraged and will be accepted for 60 days until October 20, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Gary Schaible, National Firearms Act Branch at *nfaombcomments@atf.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection 1140–0016

1. *Type of Information Collection:* Extension without change of an existing collection.

2. *The Title of the Form/Collection:* Application for Registration of Firearms Acquired by Certain Government Entities.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 10 (5320.10).

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local or Tribal Government.

Other: None.

Abstract: The form is required to be submitted by State and local government entities wishing to register an abandoned or seized and previously unregistered National Firearms Act weapon. The form is required whenever application for such a registration is made.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 2,133 respondents will take 30 minutes to complete and mail the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 1,067 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: August 18, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–19834 Filed 8–20–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0064]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Application for Restoration of Explosives Privileges

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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.

DATES: Comments are encouraged and will be accepted for 60 days until October 20, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact William Joa at *William.Joa@atf.gov* or Bureau of Alcohol, Tobacco, Firearms and Explosives, Redstone Arsenal, Bldg. 3750, Huntsville, AL 35898.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection 1140–0064

1. *Type of Information Collection:* Extension of an existing approved collection.

2. *The Title of the Form/Collection:* Application for Restoration of Explosives Privileges.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 5400.29.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: Individual or households.

Abstract: ATF F 5400.29 is required in order to determine whether or not explosives privileges may be restored. The form is used to conduct an investigation to establish if it is likely that the applicant will act in a manner dangerous to public safety or contrary to public interest.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 500 respondents will take 30 minutes to complete the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 250 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: August 18, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–19836 Filed 8–20–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0068]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Police Check Inquiry and Pre-Screening Qualifications Certification

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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.

DATES: Comments are encouraged and will be accepted for 60 days until October 20, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Renee Reid, Chief, Personnel Security Branch at *Renee.Reid@atf.gov* or Bureau of Alcohol, Tobacco, Firearms and Explosives, 99 New York Avenue NE., Washington, DC 20226.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection 1140–0068:

1. *Type of Information Collection:* Revision of an existing collection of information.

2. *The Title of the Form/Collection:* Police Check Inquiry and Pre-Screening Qualifications Certification.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form numbers: ATF Form 8620.42 and ATF Form 8620.62.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or Households.

Other: Business or Other For-Profit.

Abstract: The information requested is necessary to determine if individuals (potential contractors, task force officers, and volunteers) interested in providing services to ATF meet DOJ and ATF basic qualification requirements to be considered for access to ATF information, information technology systems, and/or facilities.

These agency specific requirements include, but are not limited to, residency, citizenship, drug use, financial history, firearms/explosives licensing, criminal history, and conduct qualifications. The revision is modifying ATF Form 8620.62 to conform to DOJ's qualification requirements for non-U.S. citizen contract personnel.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 1000 respondents will take 5 minutes to complete ATF Form 8620.42 and 1500 respondents will take 7 minutes to complete ATF Form 8620.62.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 258 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: August 18, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–19837 Filed 8–20–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0030]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Records and Supporting Data: Importation, Receipt, Storage, and Disposition by Explosives Importers, Manufacturers, Dealers, and Users Licensed Under the United States Code

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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.

DATES: Comments are encouraged and will be accepted for 60 days until October 20, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Anita Scheddel, Explosives Industry Programs at *eipb-informationcollection@atf.gov* or Bureau of Alcohol, Tobacco, Firearms and Explosives, 99 New York Avenue NE., Washington, DC 20226.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection 1140–0030:

1. *Type of Information Collection:* Extension without change of an existing collection.

2. *The Title of the Form/Collection:* Records and Supporting Data: Importation, Receipt, Storage, and Disposition by Explosives Importers, Manufacturers, Dealers, and Users Licensed Under Title 18 U.S.C. Chapter 40 Explosives.

3. *The agency form number, if any, and the applicable component of the Department* sponsoring the collection:

Form number: None.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or Other For-Profit.

Other: None.

Abstract: The records show daily activities in the importation, manufacture, receipt, storage, and disposition of all explosive materials covered under 18 U.S.C. Chapter 40 Explosives. The records are used to show where and to whom explosive materials are sent, thereby ensuring that any diversions will be readily apparent and if lost or stolen, ATF will be immediately notified.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 50,519 respondents will take 1 hour to maintain records.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 637,570 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: August 18, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–19835 Filed 8–20–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Arson and Explosives Registration Training Request

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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.

DATES: Comments are encouraged and will be accepted for 60 days until October 20, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Roderic Spencer at *Roderic.Spencer@atf.gov* or Bureau of Alcohol, Tobacco, Firearms and Explosives, Redstone Arsenal, Bldg. 3750, Huntsville, AL 35898.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection 1140–NEW:

1. *Type of Information Collection:* New collection.

2. *The Title of the Form/Collection:* Arson and Explosives Training Registration Request.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 6310.1.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: State and Local Government.

Other: Federal Government.

Abstract: The form is used to obtain information from Federal, State and local, and international law enforcement, and military investigator personnel applying for training conducted by ATF for the purpose of student registration, program information and program evaluation. The information on the form will be used to determine the eligibility of the applicant to attend the training.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 500 respondents will take 6 minutes to complete the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 50 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: August 18, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–19838 Filed 8–20–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Safe Drinking Water Act

On August 15, 2014, the Department of Justice lodged a proposed Third Supplement to the Consent Decree (''Third Supplement'') with the United States District Court for the Eastern District of New York in the lawsuit entitled *United States, et al.* v. *City of New York and New York City Department of Environmental Protection,* Civil Action No. CV 97–2154.

This settlement resolves the United States' claims against Defendants City of New York and New York City Department of Environmental Protection (collectively ''NYC'') for their failure to meet the milestones for completion and commencement of operation of the Croton Filtration Plant contained in the Second Supplement to the Consent Decree in this action.

On April 15, 2014, NYC completed construction of the Croton Filtration Plant. The proposed Third Supplement will require NYC to commence operation of the Croton Filtration Plant by May 17, 2015. The Third Supplement provides that if NYC fails to meet this milestone, it will pay a $65 million stipulated penalty. The Third

Supplement further provides that NYC must demonstrate that it can deliver the full 290 million gallons per day (''mgd'') design capacity of treated water into the City Drinking Water Distribution System. In addition, NYC is required to demonstrate that it can successfully operate the Croton Filtration Plant and reliably deliver water to its distribution system during a twelve month period before the Third Supplement may be terminated.

The publication of this notice opens a period for public comment on the Third Supplement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States, et al.* v. *City of New York and New York City Department of Environmental Protection,* D.J. Ref. No. 90–5–1–1–4429. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By e-mail	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Third Supplement may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Third Supplement upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $15.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Maureen M. Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–19810 Filed 8–20–14; 8:45 am]

BILLING CODE 4410–15–P

OFFICE OF MANAGEMENT AND BUDGET

Request for Comments on Digital Services Playbook and TechFAR Handbook

AGENCY: Office of Management and Budget (OMB).

ACTION: Notice.

SUMMARY: OSTP and OMB's Offices of Federal Procurement Policy (OFPP) and E-Government & Information Technology (E-Gov) are seeking public comment on two documents, the Digital Services Playbook and the TechFAR Handbook, which were developed to improve the delivery of digital services by the Federal Government.

DATES: August 21, 2014.

ADDRESSES: Interested parties may provide comment through an open source repository on GitHub by reviewing the documents and response dates posted at the following links: *http://playbook.cio.gov; http://playbook.cio.gov/techfar/*

FOR FURTHER INFORMATION CONTACT: Ms. Malissa Levesque, E-Gov, 202–395–0376 or *mlevesque@omb.eop.gov;* or Mr. Mathew Blum, OFPP, 202–395–4953, or *mblum@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: A core element of the President's 2nd Term Management Agenda is significantly improving the effectiveness and delivery of government programs and services. Increasingly, the delivery of Federal services is through digital channels like Web sites and mobile applications making it critically important to have smarter IT delivery and stronger agency accountability for success.

One way to advance smarter digital service delivery is by putting the right processes and practices in place to drive outcomes and accountability and allow people and companies to do their best work. The Digital Services Playbook and the TechFAR handbook document these best practices and processes:

- The *Digital Services Playbook* identifies a series of ''plays'' drawn from successful best practices from the private sector and government that, if followed together, will help government build effective digital services. The plays outline an approach to delivering services that increases our ability to be flexible, iterative and, most importantly, to focus on the needs of the people that use our services.
- The *TechFAR Handbook* highlights the flexibilities in the Federal Acquisition Regulation (FAR) that can help agencies implement ''plays'' from the Playbook that would be accomplished with acquisition support—with a particular focus on how to use contractors to support an iterative, customer-driven software development process, as is routinely done in the private sector.

OFPP, E-Gov, and OSTP intend for these documents to be used together by agencies as resources for the successful delivery of digital services. Comments are especially welcome on additional best practices or lessons learned that may be appropriate for inclusion in this guidance.

Lisa A. Schlosser,

Deputy Administrator, Office of E-Government & Information Technology.

Lesley A. Field,

Administrator (Acting), Office of Federal Procurement Policy.

[FR Doc. 2014–19805 Filed 8–20–14; 8:45 am]

BILLING CODE P

POSTAL REGULATORY COMMISSION

[Docket No. CP2014–70; Order No. 2155]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of a Global Expedited Package Services 3 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* August 22, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

On August 14, 2014, the Postal Service filed notice that it has entered into an additional Global Expedited Package Services 3 (GEPS 3) negotiated service agreement (Agreement).[1]

To support its Notice, the Postal Service filed a copy of the Agreement,

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, August 14, 2014 (Notice).

a copy of the Governors' Decision authorizing the product, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket No. CP2014–70 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than August 22, 2014. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Kenneth R. Moeller to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2014–70 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Kenneth R. Moeller is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than August 22, 2014.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–19800 Filed 8–20–14; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2014–69; Order No. 2154]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an addition of Global Expedited Package Services 3 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* August 22, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

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I. Introduction

On August 14, 2014, the Postal Service filed notice that it has entered into an additional Global Expedited Package Services 3 (GEPS 3) negotiated service agreement (Agreement).[1]

To support its Notice, the Postal Service filed a copy of the Agreement, a copy of the Governors' Decision authorizing the product, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket No. CP2014–69 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than August 22, 2014. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Pamela A. Thompson to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2014–69 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Pamela A. Thompson is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than August 22, 2014.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove.

Secretary.

[FR Doc. 2014–19799 Filed 8–20–14; 8:45 am]

BILLING CODE 7710–FW–P

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, August 14, 2014 (Notice).

POSTAL SERVICE

Privacy Act of 1974; System of Records

AGENCY: Postal Service™.

ACTION: Notice of modification to existing system of records.

SUMMARY: The United States Postal Service® (Postal Service) is proposing to modify one Customer Privacy Act System of Records. This modification is being made to enable the Postal Service to counter efforts to misuse the Postal Service's change-of-address (COA) process by submitting multiple on-line, COA requests for the same delivery address.

DATES: These revisions will become effective without further notice on September 22, 2014 unless comments received on or before that date result in a contrary determination.

ADDRESSES: Comments may be mailed or delivered to the Privacy and Records Office, United States Postal Service, 475 L'Enfant Plaza SW., Room 9431, Washington, DC 20260–1101. Copies of all written comments will be available at this address for public inspection and photocopying between 8 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Matthew J. Connolly, Chief Privacy Officer, Privacy and Records Office, 202–268–8582 or *privacy@usps.gov.*

SUPPLEMENTARY INFORMATION: This notice is in accordance with the Privacy Act requirement that agencies publish their amended systems of records in the **Federal Register** when there is a revision, change, or addition. The Postal Service™ has reviewed this system of records and has determined that this Customer Privacy Act System of Records should be revised to modify the following entry: purpose(s).

I. Background

The Postal Service operates an online tool that permits individuals and businesses to submit change-of-address requests quickly, easily and securely. In recent months, the Postal Service has become aware of a practice involving the submission of multiple, repetitive COA requests for a single address. This

practice requires the Postal Service to take the time, and engage in the expense of reviewing, evaluating, and addressing the submission of those requests.

II. Rationale for Changes to USPS Privacy Act Systems of Records

The System of Records 800.000 Address Change, Mail Forwarding, and Related Services is being modified to permit the Postal Service to use COA data to identify and address the practice of submitting multiple COA requests for a single address in a practical, cost-effective way, while preserving its ability to protect customer data and to process legitimate requests promptly.

III. Description of Changes to Systems of Records

The Postal Service is modifying one system of records listed below. Pursuant to 5 U.S.C. 552a(e)(11), interested persons are invited to submit written data, views, or arguments on this proposal. A report of the proposed modifications has been sent to Congress and to the Office of Management and Budget for their evaluation. The Postal Service does not expect this amended notice to have any adverse effect on individual privacy rights. The affected systems are as follows:

USPS 800.000

SYSTEM NAME:

Address Change, Mail Forwarding, and Related Services

Accordingly, for the reasons stated, the Postal Service proposes changes in the existing systems of records as follows:

USPS 800.000

SYSTEM NAME:

Address Change, Mail Forwarding, and Related Services

PURPOSE(S)

* * * * *

[ADD TEXT]

3. To prevent abuse of the change-of-address process.

* * * * *

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2014–19813 Filed 8–20–14; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72853; File No. SR–NYSEArca–2014–57]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendments No. 1 and No. 2 To List and Trade Shares of the PIMCO Foreign Bond Exchange-Traded Fund (U.S. Dollar-Hedged), PIMCO Foreign Bond Exchange-Traded Fund (Unhedged), PIMCO Global Advantage Bond Exchange-Traded Fund, and PIMCO International Advantage Bond Exchange-Traded Fund

August 15, 2014.

I. Introduction

On May 1, 2014, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Exchange Act'') [2] and Rule 19b–4 thereunder,[3] a proposed rule change to list and trade shares (''Shares'') of the PIMCO Foreign Bond Exchange-Traded Fund (U.S. Dollar-Hedged) (''Hedged Foreign Bond Fund''), PIMCO Foreign Bond Exchange-Traded Fund (Unhedged) (''Unhedged Foreign Bond Fund''), PIMCO Global Advantage Bond Exchange-Traded Fund (''Global Advantage Bond Fund''), and PIMCO International Advantage Bond Exchange-Traded Fund (''International Advantage Bond Fund'') (each a ''Fund,'' and collectively ''Funds''). The proposed rule change was published for comment in the **Federal Register** on May 22, 2014.[4] On June 12, 2014, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the proposed rule change in its entirety. On July 9, 2014, the Commission published notice to solicit comments from interested persons on the proposed rule change, as modified by Amendment No. 1, and to designate a longer period for Commission action on the proposed rule change, as modified by Amendment No. 1.[5] On July 31, 2014, the Exchange filed Amendment No. 2 to the proposed rule change, which amended and replaced the proposed rule change in its entirety.[6] The Commission received no comments on the proposal. The Commission is publishing this notice to solicit comments on Amendment No. 2 from interested persons and is approving the proposed rule change, as modified by Amendments No. 1 and No. 2, on an accelerated basis.

II. Description of the Proposed Rule Change

The Exchange has proposed to list and trade the Shares under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by PIMCO ETF Trust (''Trust''), a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.[7] The investment manager to

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 72180 (May 16, 2014), 79 FR 29461.

[5] *See* Securities Exchange Act Release No. 72531 (July 3, 2014), 79 FR 39048. Pursuant to Section 19(b)(2) of the Act, the Commission determined that it was appropriate to designate a longer period within which to take action on the proposed rule change. Accordingly, the Commission designated August 21, 2014, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change.

[6] In Amendment No. 2, the Exchange: (1) Designated structured notes, including hybrid or indexed securities and event linked bonds, as non-principal (rather than principal) potential investments of the Funds; (2) provided more information about delayed funding loans, stating that they: (a) Are borrowing arrangements in which the lender agrees to make loans up to a maximum amount upon demand by the borrower during a specified term, and (b) normally provide for floating or variable rates of interest; (3) deleted an inaccurate reference to equity securities as a principal investment of the Unhedged Foreign Bond Fund; (4) supplemented its disclosures regarding the pricing of the Funds' underlying investments for net asset value (''NAV'') purposes to state that equity securities traded over-the-counter (''OTC'') will be valued based on price quotations obtained from a broker-dealer who makes markets in such securities or other equivalent indications of value provided by a third-party pricing service; (5) supplemented its disclosures regarding the availability of price information for the Funds' underlying holdings to add that equity securities traded OTC will be available from major market data vendors; and (6) clarified that the Hedged Foreign Bond Fund and Unhedged Foreign Bond Fund may invest in mortgage-backed securities rated below B subject to the limitation of the Funds to invest up to 10% of its total assets in high-yield securities (junk bonds) rated B or higher by Moody's, or equivalently rated by S&P or Fitch, or, if unrated, determined by PIMCO to be of comparable quality. The text of Amendment No. 2 is available at: *http://www.sec.gov/comments/sr-nysearca-2014-57/nysearca201457.shtml.*

[7] The Trust is registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act''). On January 27, 2014, the Trust filed an amendment to its registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) and the 1940 Act relating to the Funds (File Nos. 333–155395 and 811–22250) (the ''Registration Statement''). In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 28993 (November 10, 2009) (File No. 812–13571).

the Funds will be Pacific Investment Management Company LLC (''PIMCO'' or the ''Adviser''). PIMCO Investments LLC will serve as the distributor for the Funds. State Street Bank & Trust Co. will serve as the custodian and transfer agent for the Funds. The Exchange represents that the Adviser is not registered as a broker-dealer, but is affiliated with a broker-dealer, and will implement a ''firewall'' with respect to such broker-dealer regarding access to information concerning the composition of or changes to a Fund's portfolio.[8]

The Exchange has made the following representations and statements regarding the Fund.[9]

Hedged Foreign Bond Fund—Principal Investments

The Hedged Foreign Bond Fund will seek maximum total return, consistent with preservation of capital and prudent investment management. The Fund will seek to achieve its investment objective by investing, under normal circumstances,[10] at least 80% of its assets in Fixed Income Instruments [11] and derivatives [12] based on Fixed Income Instruments that are economically tied to foreign countries, representing at least three foreign countries (the ''Hedged Foreign Bond Fund 80% policy'').

The Hedged Foreign Bond Fund will invest primarily in investment-grade debt securities, but may invest up to 10% of its total assets in high-yield securities (''junk bonds'') rated B or higher by Moody's Investors Service, Inc. (''Moody's''), equivalently rated by Standard & Poor's Ratings Services (''S&P'') or Fitch, Inc. (''Fitch''), or, if unrated, determined by PIMCO to be of comparable quality, except that, within such limitation, the Fund may invest in mortgage-backed securities rated below B.

In furtherance of the Hedged Foreign Bond Fund 80% policy, or with respect to the Fund's other investments, the Hedged Foreign Bond Fund may invest in derivative instruments.[13]

Normally, the Hedged Foreign Bond Fund will limit its foreign currency exposure (from non-U.S. dollar-denominated securities or currencies) to 20% of its total assets. The Fund may engage in foreign currency transactions on a spot (cash) basis or forward basis and may invest in foreign currency futures and exchange-traded or OTC options contracts.[14]

The Hedged Foreign Bond Fund may, without limitation, seek to obtain market exposure to the securities in which it primarily invests by entering into a series of purchase and sale contracts or by using other investment techniques (such as buy backs or dollar rolls). The Hedged Foreign Bond Fund may purchase or sell securities that it is eligible to purchase or sell on a when-issued, delayed delivery or forward commitment basis, and may engage in short sales.[15]

Hedged Foreign Bond Fund—Other (Non-Principal) Investments

The Hedged Foreign Bond Fund may invest up to 10% of its total assets in preferred stock, convertible securities, and other equity-related securities. The Fund may invest in variable and floating rate securities that are not Fixed Income Instruments, meaning securities that pay interest at rates that adjust whenever a specified interest rate changes or that reset on predetermined dates (such as the last day of a month or calendar quarter).[16] The Fund may invest in floating rate debt instruments (''floaters'') and inverse floating rate debt instruments (''inverse floaters'') that are not Fixed Income Instruments and may engage in credit spread trades.[17]

The Hedged Foreign Bond Fund also may invest in trade claims, privately placed and unregistered securities, and exchange-traded and OTC-traded structured products, including credit-linked securities, commodity-linked notes, hybrid or ''indexed'' securities, event-linked bonds, and structured notes. The Fund may invest in Brady Bonds.

The Hedged Foreign Bond Fund may enter into repurchase agreements on instruments other than Fixed Income Instruments. The Fund may enter into reverse repurchase agreements on instruments other than Fixed Income Instruments,[18] subject to the Fund's limitations on borrowings.

Unhedged Foreign Bond Fund—Principal Investments

The Unhedged Foreign Bond Fund will seek maximum total return, consistent with preservation of capital and prudent investment management. The Fund will seek to achieve its investment objective by investing, under normal circumstances, at least 80% of its assets in Fixed Income Instruments and derivatives based on Fixed Income Instruments that are economically tied to foreign countries representing at least three foreign countries (the ''Unhedged Foreign Bond Fund 80% policy'').

The Unhedged Foreign Bond Fund will invest primarily in investment-grade debt securities, but may invest up to 10% of its total assets in high-yield

[8] *See* Commentary .06 to NYSE Arca Equities Rule 8.600. The Exchange represents that, in the event (a) the Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, the adviser or sub-adviser, as appropriate, will implement a firewall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition of or changes to the applicable portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio. *See* Amendment No. 2, *supra* note 6 at 5.

[9] Additional information regarding the Trust, the Funds, the Shares, investment strategies, investment restrictions, risks, NAV calculation, creation and redemption procedures, fees, portfolio holdings, disclosure policies, distributions, and taxes, among other information, is included in Amendment No. 2 and the Registration Statement, as applicable. *See* Amendment No. 2 and Registration Statement, *supra* notes 6 and 7, respectively.

[10] With respect to each Fund, the term ''under normal circumstances'' includes, but is not limited to, the absence of extreme volatility or trading halts in the fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as a systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

[11] Each Fund may invest in Fixed Income Instruments, which include: Securities issued or guaranteed by the U.S. Government, its agencies or government-sponsored enterprises (''U.S. Government Securities''); corporate debt securities of U.S. and non-U.S. issuers, including convertible securities and corporate commercial paper; mortgage-backed and other asset-backed securities; inflation-indexed bonds issued both by governments and corporations; loan participations and assignments; delayed funding loans and revolving credit facilities; bank certificates of deposit, fixed time deposits, and bankers' acceptances; repurchase agreements on Fixed Income Instruments and reverse repurchase agreements on Fixed Income Instruments; debt securities issued by state or local governments and their agencies, authorities, and other government-sponsored enterprises; obligations of non-U.S. governments or their subdivisions, agencies, and government-sponsored enterprises; and obligations of international agencies or supranational entities. Each of the Funds may invest up to 20% of its assets in mortgage-related and other asset-backed securities, although this 20% limitation does not apply to securities issued or guaranteed by Federal agencies or U.S. government sponsored instrumentalities.

[12] With respect to each Fund, derivative instruments will include forwards; exchange-listed and OTC options contracts; exchange-traded futures contracts; exchange-traded and OTC swap agreements; exchange-traded and OTC options on futures contracts; and exchange-traded and OTC options on swap agreements.

[13] With respect to each Fund, derivative instruments will include: Forwards; exchange-traded and OTC options contracts; futures contracts; exchange-traded and OTC swap agreements; exchange-traded and OTC options on futures contracts; and exchange-traded and OTC options on swap agreements. *See* Amendment No. 2, *supra* note 6 at 8.

[14] *See* Amendment No. 2, *supra* note 6 at 13.

[15] *See id.* at 13–14.

[16] *See id.* at 14.

[17] *See id.*

[18] *See id.* at 15.

securities (junk bonds) rated B or higher by Moody's, equivalently rated by S&P or Fitch, or, if unrated, determined by PIMCO to be of comparable quality, except that, within such limitation, the Fund may invest in mortgage-backed securities rated below B.

The Unhedged Foreign Bond Fund may invest in securities and instruments that are economically tied to emerging market countries, subject to applicable limitations set forth herein.

In furtherance of the Unhedged Foreign Bond Fund 80% policy, or with respect to the Fund's other investments, the Unhedged Foreign Bond Fund may invest in derivative instruments.[19]

The Unhedged Foreign Bond Fund may invest in securities denominated in foreign currencies, engage in foreign currency transactions on a spot (cash) basis or forward basis and may invest in foreign currency futures and exchange-traded or OTC options contracts.[20]

The Unhedged Foreign Bond Fund may, without limitation, seek to obtain market exposure to the securities in which it primarily invests by entering into a series of purchase and sale contracts or by using other investment techniques (such as buy backs or dollar rolls). The Fund may purchase or sell securities on a when-issued, delayed delivery, or forward commitment basis and may engage in short sales.[21]

Unhedged Foreign Bond Fund—Other (Non-Principal) Investments

The Unhedged Foreign Bond Fund may invest up to 10% of its total assets in preferred stock, convertible securities, and other equity-related securities. The Fund may invest in variable and floating rate securities that are not Fixed Income Instruments.[22] The Fund may invest in floaters and inverse floaters that are not Fixed Income Instruments and may engage in credit spread trades.[23]

The Unhedged Foreign Bond Fund may invest in trade claims, privately placed and unregistered securities, and exchange-traded and OTC-traded structured products, including credit-linked securities, commodity-linked notes, hybrid or ''indexed'' securities, event-linked bonds, and structured notes. The Fund may invest in Brady Bonds.

The Unhedged Foreign Bond Fund may enter into repurchase agreements on instruments other than Fixed Income Instruments.[24] The Fund may enter into reverse repurchase agreements on instruments other than Fixed Income Instruments subject to the Fund's limitations on borrowings.[25]

Global Advantage Bond Fund—Principal Investments

The Global Advantage Bond Fund will seek total return exceeding that of its benchmarks, consistent with prudent investment management. The Fund will seek to achieve its investment objective by investing, under normal circumstances, at least 80% of its assets in Fixed Income Instruments and derivatives based on Fixed Income Instruments that are economically tied to at least three countries, which may include foreign countries and may also include the U.S. (the ''Global Advantage Bond Fund 80% policy'').

The Global Advantage Bond Fund may invest in both investment-grade debt securities and high-yield securities (junk bonds) subject to a maximum of 15% of its total assets in securities rated below B by Moody's, S&P, or Fitch, or, if unrated, determined by PIMCO to be of comparable quality.

In furtherance of the Global Advantage Bond Fund 80% policy, or with respect to the Fund's other investments, the Global Advantage Bond Fund may invest in derivative instruments.[26]

The Global Advantage Bond Fund may invest, without limitation, in securities denominated in foreign currencies and in U.S. dollar-denominated securities of foreign issuers. The Fund may engage in foreign currency transactions on a spot (cash) basis or forward basis and may invest in foreign currency futures and exchange-traded and OTC options contracts.[27]

The Global Advantage Bond Fund may, without limitation, seek to obtain market exposure to the securities in which it primarily invests by entering into a series of purchase and sale contracts or by using other investment techniques (such as buy backs or dollar rolls). The Global Advantage Bond Fund may purchase or sell securities on a when-issued, delayed delivery, or forward commitment basis and may engage in short sales.[28]

Global Advantage Bond Fund—Other (Non-Principal) Investments

The Global Advantage Bond Fund may invest up to 10% of its total assets in preferred stock, convertible securities, and other equity-related securities. The Fund may invest in variable and floating rate securities that are not Fixed Income Instruments.[29] The Fund may invest in floaters and inverse floaters that are not Fixed Income Instruments [30] and may engage in credit spread trades.

The Global Advantage Bond Fund may invest in trade claims, privately placed and unregistered securities, and exchange-traded and OTC-traded structured products, including credit-linked securities, commodity-linked notes, hybrid or ''indexed'' securities, event-linked bonds, and structured notes. The Fund may invest in Brady Bonds.

The Global Advantage Bond Fund may enter into repurchase agreements on instruments other than Fixed Income Instruments.[31] The Fund may enter into reverse repurchase agreements on instruments other than Fixed Income Instruments subject to the Fund's limitations on borrowings.[32]

International Advantage Bond Fund—Principal Investments

The International Advantage Bond Fund will seek total return exceeding that of its benchmarks, consistent with prudent investment management. The Fund will seek to achieve its investment objective by investing, under normal circumstances, at least 80% of its assets in Fixed Income Instruments and derivatives based on Fixed Income Instruments that are economically tied to foreign countries, representing at least three foreign countries (the ''International Advantage Bond Fund 80% policy'').

The International Advantage Bond Fund may invest in both investment-grade debt securities and high-yield securities subject to a maximum of 15% of its total assets in securities rated below B by Moody's, S&P, or Fitch, or, if unrated, determined by PIMCO to be of comparable quality.

In furtherance of the International Advantage Bond Fund 80% policy, or with respect to the Fund's other investments, the International Advantage Bond Fund may invest in derivative instruments.[33]

The International Advantage Bond Fund may invest, without limitation, in securities denominated in foreign currencies and in U.S. dollar-denominated securities of foreign issuers. The Fund may engage in foreign currency transactions on a spot (cash)

[19] *See supra,* note 13.

[20] *See* Amendment No. 2, *supra* note 6.

[21] *See id.* at 16–17.

[22] *See id.* at 17.

[23] *See id.*

[24] *See id.*

[25] *See id.*

[26] *See supra,* note 13.

[27] *See* Amendment No. 2, *supra* note 6 at 18.

[28] *See id.*

[29] *See id.* at 19.

[30] *See id.*

[31] *See id.*

[32] *See id.*

[33] *See supra,* note 13.

basis or forward basis and may invest in foreign currency futures and exchange-traded and OTC options contracts.[34]

The International Advantage Bond Fund may, without limitation, seek to obtain market exposure to the securities in which it primarily invests by entering into a series of purchase and sale contracts or by using other investment techniques (such as buy backs or dollar rolls). The Fund may purchase or sell securities on a when-issued, delayed delivery, or forward commitment basis and may engage in short sales.[35]

International Advantage Bond Fund—Other (Non-Principal) Investments

The International Advantage Bond Fund may invest up to 10% of its total assets in preferred stock, convertible securities, and other equity-related securities.

The International Advantage Bond Fund may invest in variable and floating rate securities that are not Fixed Income Instruments.[36] The Fund may invest in floaters and inverse floaters that are not Fixed Income Instruments [37] and may engage in credit spread trades.

The International Advantage Bond Fund may invest in trade claims, privately placed and unregistered securities, and exchange-traded and OTC-traded structured products, including credit-linked securities, commodity-linked notes, hybrid or ''indexed'' securities, event-linked bonds, and structured notes. The Fund may invest in Brady Bonds.

The International Advantage Bond Fund may enter into repurchase agreements on instruments other than Fixed Income Instruments.[38] The Fund may enter into reverse repurchase agreements on instruments other than Fixed Income Instruments subject to the Fund's limitations on borrowings.[39]

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to list and trade the Shares is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[40] In particular, the Commission finds that the proposed rule change, as modified by Amendments No. 1 and No. 2, is consistent with Section 6(b)(5) of the Exchange Act,[41] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Funds and the Shares must comply with the requirements of NYSE Arca Equities Rule 8.600 to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Exchange Act,[42] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotation and last sale information for the Shares will be available via the CTA high-speed line.

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.[43] Price information relating to equity securities traded OTC will be available from major market data vendors. 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.[44] Intra-day and closing price information regarding equity securities traded on a national securities exchange, including common stocks, preferred stocks, securities convertible into stocks, closed-end funds, exchange traded funds, and other equity-related securities, will be available from the exchange on which such securities are traded.[45] Intra-day and closing price information regarding exchange-traded options (including options on futures) and futures will be available from the exchange on which such instruments are traded.[46] Intra-day and closing price information regarding Fixed Income Instruments also will be available from major market data vendors. Price information relating to forwards will be available from major market data vendors.[47]

In addition, the PIV, as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session.[48] The dissemination of the PIV, together with the Disclosed Portfolio, may allow investors to determine an approximate value of the underlying portfolio of each of the Funds on a daily basis and to provide an estimate of that value throughout the trading day.[49]

On each Business Day, before commencement of trading in Shares in the Core Trading Session (9:30 a.m. E.T. to 4:00 p.m. E.T.) on the Exchange, each of the Funds will disclose on the Trust's Web site the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) that will form the basis for each of the Fund's calculation of NAV at the end of the Business Day.[50] The Trust's Web site (*www.pimcoetfs.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for each of the Funds that may be downloaded. The Trust's Web site will include additional quantitative information updated on a daily basis, including, for each of the Funds, (1) daily trading volume, the prior business day's reported closing price, NAV and mid-point of the bid/ask [51] spread at the time of calculation of the NAV (the ''Bid/Ask Price''), 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.

Further, the Commission believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. On each Business Day, before commencement of trading in Shares in the Core Trading Session (9:30 a.m. E.T.

[34] *See* Amendment No. 2, *supra* note 6 at 20.

[35] *See id.* at 21.

[36] *See id.*

[37] *See id.*

[38] *See id.*

[39] *See id.*

[40] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[41] 15 U.S.C. 78f(b)(5).

[42] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[43] *See* Amendment No. 2, *supra* note 6, at 32.

[44] *See id.*

[45] *See id.* at 31.

[46] *See id.* at 31–32.

[47] *See id.* at 32.

[48] Several major market data vendors display or make widely available PIV taken from the CTA or other data feeds. *See id.*

[49] *See id.*

[50] *See id.* at 30.

[51] The Bid/Ask Price of each of the Funds will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of that Fund's NAV. The records relating to Bid/Ask Prices will be retained by each of the Funds and their service providers. *See id.*

to 4:00 p.m. E.T.) on the Exchange, each of the Funds will disclose on the Trust's Web site the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) that will form the basis for each of the Fund's calculation of NAV at the end of the Business Day.[52] The Commission notes that 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.[53]

In addition, a basket composition file—which includes the security names and share quantities, if applicable, required to be delivered in exchange for a Fund's Shares, together with estimates and actual cash components—will be publicly disseminated daily prior to the opening of the Exchange via the NSCC. The basket will represent one Creation Unit of each of the Funds.[54]

The Commission notes that the Reporting Authority (as defined in NYSE Arca Equities Rule 8.600(c)(4)) that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the portfolio.[55] Further, personnel who make decisions on the 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 Exchange represents that the Adviser is not registered as a broker-dealer, but is affiliated with a broker-dealer, and will implement a firewall with respect to such broker-dealer regarding access to information concerning the composition of or changes to a Fund's portfolio.[56] The Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares.[57] Trading in Shares will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also 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 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 will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares may be halted.

The Exchange has represented that the Shares are deemed to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.[58]

In support of this proposal, the Exchange has made the following additional representations:

(1) Each Fund's Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600.

(2) The Exchange's surveillance 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 federal securities laws applicable to trading on the Exchange.[59]

(3) FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, exchange-traded options, exchange-traded equities, futures, and options on futures with other markets or other entities that are members of the ISG, and FINRA may obtain trading information regarding trading in the Shares, exchange-trade options, exchange-traded equities, futures, and options on futures from such markets or entities. In addition, the Exchange may obtain information regarding trading in the Shares, exchange-traded options, exchange-traded equities, futures, and options on futures from markets or other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Funds reported to FINRA's Trade Reporting and Compliance Engine.

(4) Not more than 10% of the net assets of a Fund in the aggregate invested in exchange-traded equity securities shall consist of equity securities, including stocks into which a convertible security is converted, whose principal market is not a member of the ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. Further, not more than 10% of the net assets of a Fund in the aggregate invested in futures contracts or exchange-traded options contracts shall consist of futures contracts or exchange-traded options contracts whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.[60]

(5) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(6) Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit (''ETP'') Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated PIV will not be calculated or publicly disseminated; (4) how information regarding the PIV is disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

[52] *See id*. On a daily basis, the Funds will disclose on the Funds' Web site the following information regarding each portfolio holding, as applicable to the type of holding: Ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding, such as the type of swap); the identity of the security, commodity, index, or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value, or number of shares, contracts, or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in a Fund's portfolio. Under accounting procedures followed by the Funds, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Accordingly, the Funds will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the Business Day. *See id*. at 30–31.

[53] *See id*. at 33.

[54] *See id*. at 31.

[55] *See* NYSE Arca Equities Rule 8.600(d)(2)(B)(ii).

[56] *See supra* note 8 and accompanying text.

[57] *See* NYSE Arca Equities Rule 7.12.

[58] *See* NYSE Arca Equities Rule 8.600(d)(2)(C)(ii).

[59] The Financial Industry Regulatory Authority (''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. *See* Amendment No. 2, *supra* note 6, at 33.

[60] *See id*. at 34.

(7) For initial and continued listing, each Fund will be in compliance with Rule 10A–3 under the Act,[61] as provided by NYSE Arca Equities Rule 5.3.[62]

(8) Each Fund's investments, including investments in derivative instruments, will be subject to all of the restrictions under the 1940 Act, including restrictions with respect to illiquid assets; that is, the limitation that a Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser, consistent with Commission guidance.

(9) A minimum of 100,000 Shares for each Fund will be outstanding at the commencement of trading on the Exchange.

This order is based on all of the Exchange's representations, including those set forth above and in the Notice.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Exchange Act.

IV. Solicitation of Comments on Amendment No. 2

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 2 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–NYSEArca–2014–57 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–NYSEArca–2014–57. 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–NYSEArca–2014–57, and should be submitted on or before September 11, 2014.

V. Accelerated Approval of Proposed Rule Change as Modified by Amendment Nos. 1 and 2

The Commission finds good cause to approve the proposed rule change, as modified by Amendments No. 1 and No. 2, prior to the thirtieth day after the date of publication of notice of Amendment No. 2 in the **Federal Register**. In Amendment No. 2, the Exchange included additional information regarding the underlying investments of the Funds which assisted the Commission in analyzing the trading of the Shares on the Exchange. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act, to approve the proposed rule change, as modified by Amendments No. 1 and No. 2, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[63] that the proposed rule change, as modified by Amendments No. 1 and No. 2, (SR–NYSEArca–2014–57), be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[64]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–19806 Filed 8–20–14; 8:45 am]

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[61] 17 CFR 240.10A–3.

[62] *See* Amendment No. 2, *supra* note 6, at 33.

[63] 15 U.S.C. 78s(b)(2).

[64] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72854; File No. SR–FINRA–2014–036]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change Relating to the Composition of Hearing Panels and Extended Hearing Panels in Disciplinary Proceedings

August 15, 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 August 7, 2014, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 9231 to add a category of persons eligible to be a Panelist on a Hearing Panel or an Extended Hearing Panel constituted to conduct disciplinary proceedings. FINRA is also proposing to make a conforming amendment to FINRA Rule 9232, which comprises criteria for the appointment of a Panelist to a Hearing Panel or an Extended Hearing Panel.

Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

9200. DISCIPLINARY PROCEEDINGS

* * * * *

9230. Appointment of Hearing Panel, Extended Hearing Panel

9231. Appointment by the Chief Hearing Officer of Hearing Panel or Extended Hearing Panel or Replacement Hearing Officer

(a) No Change.

(b) Hearing Panel

The Hearing Panel shall be composed of a Hearing Officer and two Panelists, except as provided in paragraph (e) and in Rule 9234 (a), (c), (d), or (e). The Hearing Officer shall serve as the chair of the Hearing Panel. Each Panelist shall be associated with a member of FINRA or retired therefrom.

(1) Except as provided in *subparagraph* (2) *below,* the Chief Hearing Officer shall select as a Panelist a person who:

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(A) through (B) No Change.

(C) previously served on a disciplinary subcommittee of the National Adjudicatory Council or the National Business Conduct Committee, including a Subcommittee, an Extended Proceeding Committee, or their predecessor subcommittees; [or,]

(D) previously served as a Director or a Governor, but does not serve currently in any of these positions[.]*; or,*

(E) currently serves or previously served on a committee appointed or approved by the FINRA Board, but does not serve currently on the National Adjudicatory Council or as a Director or a Governor.

(2) No Change.

(c) through (e) No Change.

9232. Criteria for Selection of Panelists and Replacement Panelists

(a) through (c) No Change.

(d) Criteria for Appointment of a Panelist

After the Chief Hearing Officer designates the Primary District Committee, the Chief Hearing Officer shall select Panelists from the current members of the Primary District Committee, the other categories of persons eligible to serve as Panelists as set forth in Rule 9231(b)(1)(A) through [(D)]*(E)* or, if applicable, in Rule 9231(c), who are located in the same geographic area as the Primary District Committee, and, if applicable, from the current or former members of the Market Regulation Committee, based upon the following criteria:

(1) through (4) No Change.

(e) No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA Rules 9231 and 9232 govern the appointment of a Hearing Panel or an Extended Hearing Panel and establish criteria for the selection of Panelists. The proposed rule change would amend FINRA Rule 9231 to add a category of persons eligible to serve as a Panelist on a Hearing Panel or an Extended Hearing Panel to include a person who currently serves or served previously on a committee appointed or approved by the FINRA Board. The proposed rule change would also make a conforming amendment to FINRA Rule 9232, which establishes criteria for the appointment of eligible Panelists to Hearing Panels and Extended Hearing Panels. The proposed rule change will provide FINRA with a larger pool of individuals that have adequate experience and expertise to serve as Panelists.

Background

FINRA's disciplinary process begins with the Department of Enforcement or Department of Market Regulation filing a complaint with the Office of Hearing Officers that alleges a member or person associated with a member is violating or has violated any rule, regulation, or statutory provision, including the federal securities laws and related regulations.[3] Thereafter, the Chief Hearing Officer assigns a Hearing Officer to preside over the disciplinary proceeding,[4] and appoints Panelists to a Hearing Panel or, if applicable, an Extended Hearing Panel to conduct the disciplinary proceeding.[5] Trial-level hearings take place before a Hearing Panel or an Extended Hearing Panel, which listens to the presentation of evidence and issues a written decision setting forth findings as to whether a respondent engaged in the alleged misconduct and describing the sanctions, if any, imposed.[6] A Hearing Panel or an Extended Hearing Panel decision is generally appealable to, and subject to discretionary review by, the National Adjudicatory Council (''NAC'').[7]

Under FINRA Rule 9231, a Hearing Officer and two industry Panelists, who are either currently associated with FINRA member firms or retired therefrom, compose a Hearing Panel or an Extended Hearing Panel.[8] The Chief Hearing Officer appoints Panelists from a pool of eligible persons that currently includes persons who: (1) Currently serve or previously served on a District Committee; [9] (2) previously served on the NAC; (3) previously served on a disciplinary subcommittee of the NAC or its predecessor; (4) previously served as a Director or Governor, but do not currently serve in any of these positions; or (5) in limited cases, currently serve or previously served on the Market Regulation Committee.[10]

Panelists are also the subject of certain selection criteria under FINRA Rule 9232. Among other things, the Chief Hearing Officer must designate a District Committee as the ''Primary District Committee'' based on the facts and circumstances of the case.[11] After designating the Primary District Committee, the Chief Hearing Officer must select Panelists from the current members of the Primary District Committee, the other categories of persons eligible to serve as Panelists who are located in the same geographic area as the Primary District Committee, or current or former members of the Market Regulation Committee, based upon criteria that include their expertise, the absence of any conflict of interest or bias, availability, and the frequency with which a person has served as a Panelist during the previous two years.[12]

Proposal To Expand the Pool of Eligible Panelists

FINRA places a high value on a fair, efficient, and expeditious disciplinary process. Although FINRA Rules 9231 and 9232 establish Panelist eligibility and selection criteria, service on a Hearing Panel or an Extended Hearing

[3] *See* FINRA Rule 9211.

[4] *See* FINRA Rule 9213(a). A ''Hearing Officer'' is appointed by the Chief Hearing Officer to act in an adjudicative role and fulfill various adjudicative responsibilities in disciplinary and other proceedings. FINRA Rule 9120(r). The Hearing Officer exercises a key role in the disciplinary proceeding and, among other things, administers pre-hearing matters, including most motions, resolves procedural and evidentiary matters, oversees the settlement and discovery process, regulates the course of the proceeding, and drafts a decision that represents the view of the majority of the Hearing Panel or Extended Hearing Panel. *See generally* FINRA Rule 9235. The proposed rule change would not alter the important role of professional Hearing Officers in disciplinary proceedings.

[5] FINRA Rules 9213(b), 9231(a). The Chief Hearing Officer appoints an Extended Hearing Panel if, upon consideration of the complexity of the issues involved, the probable length of the hearing, or other factors, the Chief Hearing Officer determines that a matter shall be an ''Extended Hearing.'' *See* FINRA Rules 9120(i), 9231(c). Because of the demands on his or her time, the Chief Hearing officer is authorized to compensate a Panelist serving on an Extended Hearing Panel in accordance with the rates set for individuals who serve as arbitrators in the FINRA forum. *See* FINRA Rule 9231(c).

[6] *See generally* FINRA Rule 9260 Series.

[7] *See* FINRA Rule 9311.

[8] *See* FINRA Rule 9231(b) and (c).

[9] FINRA District Committees are called upon to apply their knowledge and expertise of issues facing the securities industry to support FINRA's investor protection mission, and they serve an important role in the regulatory process. District Committee members are elected by direct nomination based on firm size. *See generally* FINRA Regulation By-Laws, Article VIII.

[10] *See* FINRA Rule 9231(b) and (c).

[11] *See* FINRA Rules 9120(y), 9232(a) and (c).

[12] *See* FINRA Rule 9232(d). FINRA Rule 9232(e) provides the Chief Hearing Officer with the flexibility to select one or both Panelists from outside the area of the designated Primary District Committee where such Panelists more clearly meet the criteria set forth in the rules and the public interest or the administration of FINRA's regulatory and enforcement program would be enhanced by the selection of such Panelists.

Panel is voluntary. The pool of Panelists eligible under FINRA Rule 9231 to serve on Hearing Panels and Extended Hearing Panels may appear large, but the Chief Hearing Officer, in practice, relies primarily upon the willingness of current and former District Committee members to serve as Panelists in disciplinary proceedings.[13] These individuals, who are typically experienced, senior executives or managers of their respective firms, frequently do not possess the flexibility to devote significant time and attention away from their businesses to serve as Panelists, particularly as Panelists for those complex and lengthy matters that require the Chief Hearing Officer to appoint an Extended Hearing Panel to conduct the disciplinary proceeding.[14] Even in those instances where a current or former member of a District Committee expresses a willingness to serve as a Panelist, geographic and other selection criteria under FINRA Rule 9232 may impose additional limitations on serving.

To ensure that the Chief Hearing Officer is able to quickly and efficiently assign disciplinary matters so that they may be scheduled for a hearing and resolution, FINRA proposes to amend FINRA Rule 9231 to expand the pool of persons eligible to serve as Panelists. The proposed rule change would add one category of persons eligible to serve on a Hearing Panel or an Extended Hearing Panel for a disciplinary proceeding.[15] This additional category includes a person who currently serves or previously served on a committee appointed or approved by the FINRA Board that is not currently a member of the NAC or a Director or Governor.[16]

In effect, the proposed rule change enlarges the number of FINRA committees from which experienced and expert Panelists could be drawn to encompass industry members that serve, or have served, on the FINRA Advisory Committees, including, for example, the Compliance Advisory Committee, Corporate Financing Committee, Financial Responsibility Committee, Fixed Income Committee, Investment Dealer/Insurance Affiliate Committee, and Membership Committee.[17] Members of the FINRA Advisory Committees, like members of the District Committees, are typically experienced, senior executives and managers of their respective firms. They provide input, advice, and recommendations to FINRA about best practices, regulatory initiatives, rules and policies concerning broker-dealer activities, compliance programs, and regulatory issues.

Although the proposed rule change would make a conforming amendment to FINRA Rule 9232 to reflect the additional category of eligible Panelists under proposed FINRA Rule 9231, it would not alter the criteria currently contained within FINRA Rule 9232 for the selection of Panelists. The proposed rule change would not alter the Office of Hearing Officers' careful approach to identifying and preventing conflicts of interest or bias in each hearing. Panelists would remain subject to FINRA Rule 9234, which requires that a Panelist notify the Hearing Officer and withdraw from any matter where the Panelist possesses a conflict of interest or bias, or where circumstances otherwise exist where his fairness might reasonably be questioned.[18] To achieve the goals of this rule, the Office of Hearing Officers requires Panelists to acknowledge they are free of conflicts of interest and bias in each disciplinary proceeding for which they are selected, after considering, among other things, the parties, issues, and lawyers involved in the matter under consideration.

The effective date of the proposed rule change will be the date of Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(8) of the Act,[19] which requires, among other things, that FINRA rules provide a fair procedure for the disciplining of members and persons associated with members. FINRA believes that the proposed rule change, consistent with this purpose of the Act, assures that complaints filed with the Officer of Hearing Officers will continue to be heard and resolved in a timely manner by Panelists with the expertise, experience, and perspective necessary to render a fair and informed judgment and, where necessary, to impose appropriately remedial sanctions. The proposed rule change will afford the Chief Hearing Officer additional flexibility to appoint Extended Hearing Panels that are composed of Panelists capable of responding to the complex issues and time demands that are associated with Extended Hearings. Furthermore, the proposed rule change will reduce the burden on the current and former members of the District Committees that currently hear cases. By expanding the pool of eligible Panelists, the frequency with which past and present District Committee members are called upon to serve on disciplinary panels should decrease. It will also help ensure that the Chief Hearing Officer has at her disposal Panelists that are more readily available to serve and are capable of doing so without real or perceived conflicts of interest or biases that could delay the appointment of a Hearing Panel or an Extended Hearing Panel and the resolution of individual matters.

FINRA also believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[20] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that adding qualified persons to the pool of eligible Panelists will enhance the dispassionate application of the federal securities laws and FINRA rules in disciplinary proceedings, promote high business standards for FINRA members, and allow for the prompt adjudication of allegations of misconduct by FINRA members and their associated persons. It is in the public interest, and consistent with the Act's purpose, that FINRA disciplinary proceedings be timely resolved and that well-timed sanctions be imposed where necessary to redress customer harm and deter future misconduct.

[13] For example, although former members of the NAC and former Directors and Governors are eligible to serve as Panelists under FINRA Rule 9231, they are subject to competing burdens on their time as they are also eligible to serve on the subcommittees of the NAC that hear appeals from Hearing Panel and Extended Hearing Panel decisions. *See* FINRA Rule 9331(a)(1). The number of disciplinary matters that require Panelists from the pool of current or past members of the Market Regulation Committee is small.

[14] Finding Panelists willing to serve on Extended Hearing Panels, which are commonly appointed in cases where the hearing is expected to last longer than four days and may last weeks, presents particular challenges for the Chief Hearing Officer. FINRA has experienced an increase in the complexity and length of some disciplinary matters, resulting in a rise in the number of proceedings requiring the service of Extended Hearing Panels.

[15] By extension, the proposed rule change would also expand the pool of persons eligible to serve as Panelists on Hearing Panels for some expedited proceedings under the FINRA Rule 9550 Series. *See* FINRA Rule 9559(d)(2) (referencing FINRA Rules 9231 and 9232 for panelists qualifications for serving on certain expedited proceedings).

[16] The proposed rule change does not change the stipulation under FINRA Rule 9231(b) that Panelists be associated with a member of FINRA or retired therefrom.

[17] A complete list of the FINRA Advisory Committees, and a description of their roles and the advice they provide to FINRA, are detailed at: *http://www.finra.org/AboutFINRA/Leadership/Committees/p197363.*

[18] *See* FINRA Rule 9234(a).

[19] 15 U.S.C. 78*o*–3(b)(8).

[20] 15 U.S.C. 78*o*–3(b)(6).

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is intended solely to enhance the administration of FINRA's process for the disciplining of members and persons associated with members. FINRA believes the proposed rule change will allow the Chief Hearing Officer flexibility to appoint Panelists and thereby maintain the timely progress of cases to a hearing. FINRA does not believe that the proposed rule change will have any negative effect on members or impose any new costs.

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 (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2014–036 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–FINRA–2014–036. 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2014–036 and should be submitted on or before September 11, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–19807 Filed 8–20–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72855; File No. SR–CBOE–2014–064]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

August 15, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 6, 2014, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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 its Fees Schedule, to be effective August 6, 2014. The Exchange's Volume Incentive Program (''VIP'') credits each Trading Permit Holder (''TPH'') the per contract amount resulting from each public customer (''Customer'') (''C'' origin code) order transmitted by that TPH which is executed electronically on the Exchange in all multiply-listed option classes (excluding RUT, mini-options, QCC trades and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in Rule 6.80), provided the TPH meets certain percentage thresholds in a month as

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

described in the VIP table.[3] Currently, the Exchange provides a VIP credit for Customer to Customer complex orders transmitted and executed electronically on the Exchange (such credits are provided on both sides of the transaction, at a negative revenue situation for the Exchange). The Exchange proposes to exclude from the VIP electronic executions that occur when a Customer complex order executes against another Customer complex order.[4] The Exchange believes that electronic Customer complex order to Customer complex order transactions are rare and no longer believes that offering credits pursuant to the VIP for this scenario (and the resulting negative revenue situation) is necessary to attract Customer complex orders to the Exchange.

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.[5] Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[6] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange believes that it is reasonable to not provide a VIP credit for Customer to Customer complex orders transmitted and executed electronically on the Exchange because the Exchange does not believe it is necessary to provide a credit in the above-mentioned scenario in order to attract Customer complex orders to the Exchange for execution. Further, the instances of these executions are rare and the Exchange believes it is reasonable to not incur negative revenue scenarios for complex orders as would be the case with the above-described transaction. Indeed, in circumstances in which a Customer complex order executes electronically against another Customer complex order, the Exchange currently provides a credit on both sides, and since the Exchange does not believe offering a credit for such transactions serves as a necessary incentive to attract Customer complex orders to the Exchange, the Exchange has determined that, at the current time, it is not economically desirable to offer a rebate on both sides of such transactions. Also, the Exchange does not feel that the Customer rebate incentive brings a greater number of Customer orders as a result of this incentive and therefore desires to exclude these types of transactions from the VIP. Finally, the Exchange believes that the proposed exclusion is reasonable because it will merely remove a credit on such transactions and not impose a greater fee.

The Exchange believes that the proposed exclusion is equitable and not unfairly discriminatory because the VIP credit only applies to customers and therefore the elimination of the credit in the described situation puts customers on the same competitive footing as other market participants. As such, no market participant would be entitled to a credit for these types of transactions. Additionally, another exchange also has a similar exclusion for situations in which a Customer complex order executes electronically against another Customer complex order from its program that is similar to CBOE's VIP.[7]

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the VIP credit only applies to customers and therefore the elimination of the credit in the described situation puts customers on the same competitive footing as other market participants. As such, no market participant would be entitled to a credit for these types of transactions. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed change only applies to trading on CBOE. Further, the Exchange believes that the VIP will continue to encourage Customer order flow to be directed to the Exchange. While market participants will be encouraged to transact a greater number of Customer orders to qualify for a rebate, the Exchange does not believe the current credit incentivizes a greater number of Customer complex orders executing electronically against other electronic Customer complex orders on CBOE.

The Exchange operates in a highly competitive market, comprised of many options exchanges, in which market participants can easily and readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or rebates to be inadequate. Accordingly, the fees that are assessed and the rebates paid by the Exchange described in the above proposal are influenced by these robust market forces and therefore must remain competitive with fees charged and rebates paid by other venues and therefore must continue to be reasonable and equitably allocated to those TPHs that opt to direct orders to the Exchange rather than competing venues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and paragraph (f) of Rule 19b–4[9] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule

[3] For more information on the VIP, including the amounts of the credits provided at the specific tiers, *see* the VIP table of the CBOE Fees Schedule.

[4] The Exchange's proposed first sentence of the Notes section of the VIP table would therefore read: ''The Exchange shall credit each Trading Permit Holder the per contract amount resulting from each public customer (''C'' origin code) order transmitted by that Trading Permit Holder which is executed electronically on the Exchange in all multiply-listed option classes (excluding RUT, mini-options, QCC trades, executions that occur when an electronically-delivered Customer Complex Order executes against another electronically-delivered Customer Complex Order, and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in Rule 6.80), provided the Trading Permit Holder meets certain percentage thresholds in a month as described in the Volume Incentive Program (VIP) table.''

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] *See* NASDAQ OMX PHLX LLC (''PHLX'') Pricing Schedule, Section B (''Customer Rebate Program'') *and* SR–PHLX–2014–52.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f).

change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number *SR–CBOE–2014–064* on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number *SR–CBOE–2014–064.* 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–CBOE–2014–064,* and should be submitted on or before September 11, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–19808 Filed 8–20–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Balaton Power, Inc. and Flying Eagle PU Technical Corp. (f/k/a Sooner Holdings, Inc.); Order of Suspension of Trading

August 19, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Balaton Power, Inc. because it has not filed any periodic reports since the period ended December 31, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Flying Eagle PU Technical Corp. (f/k/a Sooner Holdings, Inc.) because it has not filed any periodic reports since the period ended December 31, 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 August 19, 2014, through 11:59 p.m. EDT on September 2, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–19965 Filed 8–19–14; 4:15 pm]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 8334]

Culturally Significant Object Imported for Exhibition Determinations: ''Jean-Michel Basquiat's Glenn''

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 ''Jean-Michel Basquiat's Glenn,'' 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 Museum of Modern Art, New York, NY, from on or about September 30, 2014, until on or about September 30, 2019, 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: August 14, 2014.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–19907 Filed 8–20–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8836]

Culturally Significant Objects Imported for Exhibition Determinations: ''Northern Baroque Splendor: The Hohenbuchau Collection From: Liechtenstein. The Princely Collections, Vienna'' 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 objects to be included in the exhibition ''Northern

[10] 17 CFR 200.30–3(a)(12).

Baroque Splendor: The Hohenbuchau Collection from: Liechtenstein. The Princely Collections, Vienna,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the Bruce Museum, Greenwich, CT, from on or about September 20, 2014, until on or about April 12, 2015; the Cincinnati Art Museum, Cincinnati, OH, from on or about June 27, 2015, until on or about September 20, 2015, 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 lists 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: August 14, 2014.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–19903 Filed 8–20–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 8335]

Culturally Significant Objects Imported for Exhibition Determinations: ''Egon Schiele: Portraits'' 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 objects to be included in the exhibition ''Egon Schiele: Portraits,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Neue Galerie, New York, NY, from on or about October 9, 2014, until on or about January 19, 2015, 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: August 14, 2014.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–19905 Filed 8–20–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 8333]

Culturally Significant Objects Imported for Exhibition Determinations: ''Brilliant: Cartier in the 20th Century'' 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 objects to be included in the exhibition ''Brilliant: Cartier in the 20th Century,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Denver Art Museum, Denver, CO, from on or about November 16, 2014, until on or about March 15, 2015, 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: August 14, 2014.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–19908 Filed 8–20–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 8837]

Culturally Significant Objects Imported for Exhibition Determinations: ''The Hidden Treasures of Rome in the United States''

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, and 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 ''The Hidden Treasures of Rome in the United States,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the Museum of Art and Archaeology, University of Missouri, Columbia, Missouri, from on or about January 1, 2015, until on or about August 1, 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 imported objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: August 14, 2014.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–19900 Filed 8–20–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Change in Use of Aeronautical Property at Elizabeth City Regional Airport, Elizabeth, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comment.

SUMMARY: The Federal Aviation Administration is requesting public comment on a request by the Elizabeth City-Pasquotank County Airport Authority to change a portion of airport property from aeronautical to non-aeronautical use at the Elizabeth City Airport, Elizabeth City, North Carolina. The request consists of approximately 0.396 acres. This action is taken under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before September 22, 2014.

ADDRESSES: Documents are available for review at the North Carolina Department of Transportation, Division of Aviation, 1050 Meridian Drive, RDU Airport, NC 27623; and the FAA Memphis Airports District Office, 2600 Thousand Oaks Boulevard, Suite 2250, Memphis, TN 38118–2482. Written comments on the Sponsor's request must be delivered or mailed to: Mr. Phillip J. Braden, Manager, Memphis Airports District Office, 2600 Thousand Oaks Boulevard, Suite 2250, Memphis, TN 38118–2482.

In addition, a copy of any comments submitted to the FAA must be mailed or delivered to Mr. Philip Lanier, Airport Project Manager, NCDOT, 1560 Mail Service Center, Raleigh, NC 27699–1560.

FOR FURTHER INFORMATION CONTACT: Mr. Tim Hester, Community Planner, Federal Aviation Administration, Memphis Airports District Office, 2600, Thousand Oaks Boulevard, Suite 2250, Memphis, TN 38118–2482. The application may be reviewed in person at this same location, by appointment.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the request to release property for non-aeronautical purposes at Elizabeth City Regional Airport, Elizabeth City, NC 27909. Under the provisions of AIR 21 (49 U.S.C. 47107(h)(2).

On August 14, 2014, the FAA determined that the request to release property for non-aeronautical purposes at Elizabeth City Regional Airport meets the procedural requirements of the Federal Aviation Administration. The FAA may approve the request, in whole or in part, no later than *September 22, 2014.*

The following is a brief overview of the request:

The Elizabeth City-Pasquotank County Airport Authority is proposing to release approximately 0.396 acres at Elizabeth City Regional Airport. The change to non-aeronautical use is needed so the Airport Authority can grant additional right of way to the North Carolina Department of Transportation for the proposed widening of North Carolina 344 and the addition of a left turn lane at Stare Road 1131 (Consolidated Rd.). The turn lane will improve safety conditions at this intersection and improve traffic flow to the airport and surrounding community. The Airport Authority Board has approved of this action and has agreed on a fair market value compensation of $17,125.

Any person may inspect, by appointment, the request in person at the FAA office listed in **FOR FURTHER INFORMATION CONTACT**.

Issued in Memphis, TN, on August 14, 2014.

Phillip Braden,

Manager, Memphis Airports District Office.

[FR Doc. 2014–19885 Filed 8–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Supplemental Environmental Impact Statement: U.S. Route 121, Section II, Wise, Dickenson, and Buchanan Counties, Virginia

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent to Prepare a Supplemental Environmental Impact Statement.

SUMMARY: The Federal Highway Administration is issuing this notice to advise the public of its intent to prepare a Supplemental Environmental Impact Statement (SEIS), in cooperation with the Virginia Department of Transportation, for Section II of the proposed U.S. Route 121 (previously known as the Coalfields Expressway) in Wise, Dickenson, and Buchanan Counties, Virginia. The SEIS will evaluate an alternative that was not fully evaluated in the Final Environmental Impact Statement that was approved by FHWA in 2001.

FOR FURTHER INFORMATION CONTACT: John Simkins, Planning and Environment Team Leader, Federal Highway Administration, Post Office Box 10249, Richmond, Virginia 23240; email: *John.Simkins@dot.gov;* telephone: (804) 775–3347.

DATES: Submit comments on or before September 22, 2014.

SUPPLEMENTARY INFORMATION:

1. *Description of Proposed Action and Background:* The Virginia Department of Transportation (VDOT) proposes to construct Section II of U.S. Route 121, a limited access roadway on new location for approximately 26 miles, which would be located to the north of and roughly parallel to Virginia Route 83 (VA 83) between the Town of Pound and the U.S. Route 460 Connector in Buchanan County.

The Federal Highway Administration (FHWA) approved a Final Environmental Impact Statement (FEIS) in September 2001 and issued a Record of Decision (ROD) in November 2001 for the Coalfields Expressway Location Study, which evaluated alternative corridors for the new roadway, now designated as U.S. Route 121. The FEIS covered the full 59 miles of the proposed roadway in Virginia from U.S. Route 23 at the Town of Pound to VA Route 83 at the West Virginia state line. The ROD identified Alternative F1 as the selected alternative, and it also indicated that the project would be designed and constructed in numerous phases.

In June 2012, FHWA approved for public availability an Environmental Assessment (EA) for Section II of the Coalfields Expressway/U.S. Route 121 that evaluated an alternative that was not fully evaluated in the 2001 FEIS. The EA can be accessed at: *http://www.virginiadot.org/projects/resources/Bristol/CFX_SectionII_Environmental_Assessment_June2012.pdf.* In August 2012, public hearings were held to present the findings of the environmental studies and to receive comments on the EA. A large volume of comments were received on the EA, some which suggested the preparation of a Supplemental Environmental Impact Statement (SEIS). FHWA subsequently determined that a SEIS is necessary for Section II.

2. *Scope of the SEIS:* The scope of the SEIS will be informed by the information in the EA and the comments received on the EA. In accordance with 23 CFR 771.130 and FHWA's Technical Advisory T6640.8A (available at *http://environment.fhwa.dot.gov/projdev/impta6640.asp*), the SEIS will address the changes or new information that are the basis for preparing the SEIS and were not addressed in the FEIS, and will also summarize unchanged, but still valid, portions of the FEIS. The basis for preparing the SEIS is that the alternative that was not fully evaluated in the FEIS is likely to cause significant impacts on the environment; therefore, a primary focus of the SEIS will be the evaluation of that alternative.

3. *Public Review of SEIS:* Notification of the availability of the Draft SEIS for public and agency review will be made in the **Federal Register** and using other methods. Those methods will identify where interested parties can go to review a copy of the Draft SEIS. Public meetings will be held after the approval of the Draft SEIS and a 45-day comment period will be provided on the document. The Draft SEIS will be available for review at least 15 days prior to the public meetings. VDOT will provide information regarding the public meetings, including date, time and location through a variety of means including VDOT's Internet site (*http://www.virginiadot.org/projects/publicinvolvement.asp*) and by newspaper advertisement.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: August 15, 2014.

John Simkins,

Planning and Environment Team Leader.

[FR Doc. 2014–19897 Filed 8–20–14; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2014–0009]

Notice of Request for Comments on Updates to National Transit Database Safety Information Collection

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of Request for Comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the revision of the currently approved information collection: 49 U.S.C. 5335(a) and (b) National Transit Database (NTD). The guidance changes in this notice primarily relate to urbanized area transit providers.

DATES: Comments must be submitted before October 20, 2014.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Web site: www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site. All electronic submissions must be made to the U.S. Government electronic docket site at *www.regulations.gov.* Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–366–7951.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

5. *Instructions:* You must include the agency name and docket number, FTA–2014–0009 for this notice, at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to Internet users, without change, to *www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or at *www.regulations.gov.*

6. *Docket:* For access to the docket to read background documents and comments received, go to *www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Keith R. Gates, National Transit Database Program Manager, FTA Office of Budget and Policy, (202) 366–1794, or email: *keith.gates@dot.gov.*

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of FTA; (2) ways to enhance the quality, utility, and clarity of the collected information; and (3) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in a final notice to be published in the **Federal Register** along with FTA responses, where appropriate.

Title: 49 U.S.C. 5335(a) and (b) National Transit Database. *(OMB Number: 2132–0008).*

Background: Section 5335(a) and (b) of title 49, United States Code, requires the Secretary of Transportation to maintain a reporting system, using a uniform system of accounts, to collect financial and operating information from the nation's public transportation systems. Congress authorized the NTD to be the repository of national transit data to support public transportation service planning. FTA administers the NTD to meet these requirements, and has collected data for over 30 years. The NTD is comprised of the Annual, Rural, Monthly, and Safety & Security modules. This notice proposes various changes specific to the Safety & Security module.

Approximately 550 urban transit systems currently report to the NTD Safety & Security Module. Each system provides an annual report on the total number of security personnel, and an annual CEO certification of the safety data. Each month, transit systems provide a summary report of all minor fires and all incidents resulting in single-person injuries due to slips, falls, or electrical shocks. Systems must also provide a major incident report within 30 days of any incident involving one or more fatalities, one or more injuries, or total property damage in excess of $25,000.

In sum, the 550 urban transit systems report about 6,000 major incident reports per year in addition to 12 minor incident summary reports per year. This

reporting activity is within the level that received Paperwork Reduction Act (PRA) approval as part of the entire NTD PRA notice published in the **Federal Register** on November 7, 2011 (76 FR 6881).

This notice proposes various changes to the NTD Safety & Security module that would take effect with the CY 2015 data reporting cycle. FTA seeks comment on whether, and how, agencies reporting this data might experience difficulties meeting the revised requirements.

The U.S. Government Accountability Office (GAO) and the U.S. Department of Transportation (DOT) Office of the Inspector General (OIG) reviewed FTA procedures for collecting safety data from transit providers and recommended that FTA develop and implement appropriate internal control activities to ensure data entered into the State Safety Oversight (SSO) reporting templates are accurate. Additionally, the GAO and the OIG recommended appropriate internal controls over the methods used to review and reconcile the SSO agency data with other data sources. The changes proposed here address these recommendations and will enhance non-rail NTD safety data reporting to allow better time series analysis and evaluation of safety trends. These changes also support requirements in Section 20025(b) of the Moving Ahead for Progress in the 21st Century Act (MAP–21) that FTA improve the accuracy and reliability of public transportation safety incident data. Aligning the NTD and the SSO reporting thresholds and definitions will assist FTA in meeting this requirement and will enable analysis and evaluation of safety trends.

Although this notice proposes changes intended to better align the NTD safety data collection with data that is collected by State Safety Oversight organizations, it is independent of the larger rulemaking process that is underway to define FTA safety regulatory procedures. It is, likewise, not a part of transit asset management rulemaking or any other FTA rulemaking activities. Nothing in this notice should be construed as being a preliminary part of other FTA oversight activities.

FTA proposes NTD reporting changes as follows:

1. Change in nomenclature, incidents reported to the NTD will now be called ''events'';

2. Change in location criteria for reportable events;

3. Change in evacuation reporting criteria to include self-evacuations and maintenance-related evacuations;

4. Change in derailment reporting to include yard derailments;

5. Change in collision reporting requirements to include collisions at grade crossings;

6. Change in collision reporting requirements to include all rail collisions with individuals;

7. Change in collision reporting requirements to include all collisions between rail vehicles;

8. Change in vehicle event reporting to include indication of ''tow-away'' occurrence;

9. Change in vehicle event reporting to expand options for reporting ''other motor vehicles'';

10. Change in reporting requirements to expand options for reporting ''type of fire''; and

11. Change in reporting requirements to add latitude and longitude fields for events.

Detailed description of proposed changes:

1. Reportable Event (Clarification)

Incidents reported to the NTD and the SSO will be called ''events.'' FTA is suggesting this change because other uses of the term ''incident'' are defined as an occurrence that is less severe than an accident or imply a security event. ''Event'' in this case is intended to include planned and unplanned events that are required to be reported to the NTD. This change is necessary to provide better alignment with nomenclature used in other transportation modes, and to provide clarity during data analysis conducted to identify safety trends.

2. Change in Location Criteria

The NTD currently includes events that are ''related to or affect revenue service.'' Consistent with data reported to the SSO program, FTA proposes to revise these applicability criteria to ''an event occurring on transit right-of-way, in a transit revenue facility, in a transit maintenance facility, or involving a transit revenue vehicle, excluding occupational safety events occurring in administrative buildings.'' Application of these new criteria would mean that the NTD will no longer collect events at bus stops that are not on real property owned or controlled by the agency, unless the event involves a transit revenue vehicle, or boarding/alighting from a transit revenue vehicle.

3. Evacuations

FTA proposes to revise the definition of evacuation to include patron/passenger self-evacuations and evacuations for service or maintenance-related issues when passengers are evacuated to locations where they could potentially be exposed to hazardous situations, such as a rail right-of-way, or a highway shoulder lane. These events would require a major event report and are consistent with data reported to the SSO program.

4. Derailments

FTA proposes to expand the mandatory reporting of derailments to include yard derailments. Yard derailments would be reportable regardless of injuries, fatalities, or property damage.

5. Collisions at Grade Crossings

FTA proposes to make all collisions at grade crossings reportable to the NTD in order to improve event reporting consistency. Transit agencies are already required to report and investigate these events under the existing the SSO Program.

6. Collision With an Individual on a Rail Right-of-Way

FTA proposes to change the NTD thresholds to capture all rail collisions with individuals, regardless of injuries or fatalities; as collected in the SSO program. Collisions with individuals that do not result in an injury would be reportable to the NTD.

7. Rail to Rail Collisions

FTA proposes to require a major NTD event report for every event involving a collision between rail vehicles. This would extend the existing SSO threshold to the NTD to support improvements in data quality and reporting. Transit agencies are already required to report and investigate these events under the existing SSO program. This category is not intended to capture normal connection of vehicles.

8. Addition of ''Tow-Away''

FTA proposes to add a ''tow-away'' checkbox to the S&S–40 reporting form to make vehicle event reporting compatible with the accident reporting threshold used by the Federal Motor Carrier Safety Administration.

9. Revision to Non-Rail ''Other Motor Vehicle'' and ''Collision Event'' Screens

FTA proposes to add selections for ''other motor vehicle type'' to improve FTA's and transit agencies' ability to conduct trend analysis of non-rail vehicle collisions. New selections would include: collision with an automobile, moped, scooter, motorcycle, charter bus, or school bus as a collision with a Motor Vehicle; collision with another agency's transit vehicle as a collision with a Motor Vehicle; collision

with another of your transit agency's vehicles as a collision with a transit vehicle.

10. Revision to Non-Rail ''Type of Fire'' Categories on Fire Event Detail Screens

FTA proposes to add selections for ''type of fire'' to the non-rail fire event detail screens to provide better national-level information for vehicle fire prevention and mitigation.

11. Collect New Data on Geographic Location of Events

FTA proposes to add fields for latitude and longitude of events. This change is necessary for FTA to comply with OMB's ''*Open Data Policy-Managing Information as an Asset memorandum, M–13–13'',* which will provide for the creation and maintenance of high-quality, nationwide transportation data in the public domain.

FTA has determined that items 1, 8, and 9 above would not require any additional reporting effort. Items 3, 4, 5, 6, 7, and 10 would require that some additional data be reported, but the increase is expected to be minimal as situations where these events are not reported under current rules are relatively rare. Item 11, reporting latitude and longitude of events, is a new requirement for the NTD, though it is now an ubiquitous feature of other accident investigation reporting. FTA holds that this additional burden is more than offset by reductions in reporting that accrue under item 2, which eliminates the need to report events that occur outside this more narrowly defined area of interest. The impact of the changes proposed here on the reporting burden is expected to be neutral and to remain within the currently approved Paperwork Reduction Act collection.

Therese W. McMillan,

Acting Administrator, Federal Transit Administration.

[FR Doc. 2014–19787 Filed 8–20–14; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Announcing the Twenty-Second Public Meeting of the Crash Injury Research and Engineering Network (CIREN)

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Meeting announcement.

SUMMARY: This notice announces the Twenty-second Public Meeting of members of the Crash Injury Research and Engineering Network. CIREN is a collaborative effort to conduct research on crashes injury causation at six Level I Trauma Centers across the United States. The CIREN process combines prospective data collection with professional multidisciplinary analysis of medical and engineering evidence to determine injury causation in every crash investigation conducted. Researchers can review data and share expertise, which may lead to a better understanding of crash injury mechanisms and the design of safer vehicles.

The six centers will give presentations on current research based on CIREN data and experience. Topics include: Research on upper extremity injury from partial ejection, knee air bag deployment and lower leg interaction, injury cost analysis for motor vehicle multi-trauma, analysis of fatal outcome and multi-trauma, research on seat interaction and lower spine injury, and design of a computed tomography-based bone mineral density evaluation methodology. The final agenda will be posted to the CIREN Web site at *http://www.nhtsa.gov/ciren.* The agenda will be posted one week prior to the meeting.

Dates and Time: The meeting is scheduled from 9:00 a.m.to 3:30 p.m. on Wednesday, September 3, 2014.

ADDRESSES: The meeting will be held at: Omni Charlottesville Hotel, 212 Ridge McIntire Road, Charlottesville, VA 22903.

To Register for this Event: This event is open to the public, though it is important that attendees pre-register to ensure the organizers have an accurate head-count for planning purposes. Please send your name, affiliation, phone number, and email address to *Rodney.Rudd@dot.gov* by Wednesday, August 27, 2014, in order to have your name added to the pre-registration list.

FOR FURTHER INFORMATION CONTACT: Rodney Rudd (202) 366–5932 or Mark Scarboro (202) 366–5078.

SUPPLEMENTARY INFORMATION: The current CIREN model utilizes two types of centers, medical and engineering. Medical centers are based at Level I Trauma Centers that treat large numbers of people injured in motor vehicle crashes. These teams are led by trauma surgeons and emergency physicians and also include a crash investigator and project coordinator. Engineering centers are based at academic engineering laboratories that have experience in motor vehicle crash and human injury research. Engineering teams partner with trauma centers to enroll crash victims into the CIREN program. Engineering teams are led by mechanical engineers, typically trained in the area of impact biomechanics. Engineering teams also include trauma/emergency physicians, a crash investigator, and a project coordinator. Either type of team typically includes additional physicians and/or engineers, epidemiologists, nurses, and other researchers.

NHTSA has held CIREN public meetings on a regular basis since 2000, including quarterly meetings and annual conferences. This is the twenty-second such meeting. Presentations from these meetings are available through the NHTSA/CIREN Web site at the address provided above. NHTSA plans to continue holding CIREN meetings on a regular basis to disseminate CIREN information to interested parties. Individual CIREN cases collected since 1998 may be viewed from the NHTSA/CIREN Web site at the address provided above. Should it be necessary to cancel the meeting due to inclement weather or to any other emergencies, a decision to cancel will be made as soon as possible and posted immediately on CIREN's Web site as indicated above. If you do not have access to the Web site, you may call or email the contacts listed in this announcement and leave your telephone number or email address. You will be contacted only if the meeting is postponed or canceled.

Issued on: August 15, 2014.

Nathaniel Beuse,

Associate Administrator for Vehicle Safety Research.

[FR Doc. 2014–19833 Filed 8–20–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35849]

CSX Transportation, Inc.—Corporate Family Merger Exemption—Lakefront Dock and Railroad Terminal Company

CSX Transportation, Inc. (CSXT) and Lakefront Dock and Railroad Terminal Company (LDRT) (collectively, Applicants) have jointly filed a verified notice of exemption under 49 CFR 1180.2(d)(3) for a corporate family transaction. CSXT is a Class I rail carrier that directly controls and operates LDRT.[1] LDRT is a wholly owned

[1] *See CSX Corp.—Control—Conrail Inc.,* 3 S.T.B. 196 (1998).

subsidiary of CSXT. The transaction involves the merger of LDRT with and into CSXT with CSXT being the surviving corporation.

Applicants state the purpose of the transaction is to simplify the corporate structure, and reduce overhead costs and duplication, by eliminating one corporation while retaining the same assets to serve customers. CSXT will obtain certain other savings as a result of this transaction.

Unless stayed, the exemption will be effective on September 4, 2014 (30 days after the verified notice was filed). Applicants state that CSXT intends to merge LDRT into CSXT on or after September 5, 2014.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). Applicants state that the transaction will not result in adverse changes in service levels, significant operational changes, or any change in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. As a condition to the use of this exemption, any employees adversely affected by this transaction will be protected by the conditions set forth in *New York Dock Railway—Control—Brooklyn Eastern District Terminal,* 360 I.C.C. 60 (1979).

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 exemption. Petitions for stay must be filed no later than August 28, 2014 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35849, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Louis E. Gitomer, Law Offices of Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.''*

Decided: August 18, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S. White,

Clearance Clerk.

[FR Doc. 2014–19870 Filed 8–20–14; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. EP 724; Docket No. EP 724 (Sub-No. 2) [1]]

United States Rail Service Issues and United States Rail Service Issues—Grain

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of public hearing.

SUMMARY: The Surface Transportation Board (Board) will hold a public field hearing on September 4, 2014, at the Hilton Garden Inn in Fargo, N.D., to provide interested persons the opportunity to report on service problems in the United States rail network, to hear from rail industry executives on their efforts to address service problems, and to discuss additional options to improve service.

DATES: The hearing will be held on September 4, 2014, beginning at 8:00 a.m. at the Hilton Garden Inn located at 4351 17th Avenue South, Fargo, N.D. The hearing will be open for public observation. Any person wishing to speak at the hearing shall file with the Board a notice of intent to participate, identifying the party and the proposed speaker, no later than August 25, 2014. The notices are not required to be served on the parties of record; they will be posted to the Board's Web site when they are filed.

ADDRESSES: All notices may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the ''E-FILING'' link on the Board's Web site at ''*www.stb.dot.gov*.'' Any person submitting a notice in the traditional paper format should send an original and 10 copies of the filing to: Surface Transportation Board, Attn: Docket No. EP 724, 395 E Street SW., Washington, DC 20423–0001.

Copies of the notices will be posted to the Board's Web site and will be available for viewing and self-copying in the Board's Public Docket Room, Suite 131. Copies of the notices will also be available (for a fee) by contacting the Board's Chief Records Officer at (202) 245–0238 or 395 E Street SW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: Valerie Quinn at (202) 245–0382. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The Board has been closely monitoring the rail industry's performance since service problems began to emerge last year, and has taken a number of actions, both formal and informal to address those problems. The Board's Office of Public Assistance, Governmental Affairs and Compliance (OPAGAC) has been working with rail carriers to address and correct service issues as they arise. Representatives of OPAGAC have held numerous meetings and conference calls with affected parties to better understand the specific problems shippers are facing, and to help facilitate a quick resolution whenever possible. OPAGAC's outreach has included confidential, one-on-one meetings with affected stakeholders in Fargo, N.D., Sioux Falls, S.D., Bloomington, Minn., and Malta, Mont. OPAGAC also held one-on-one meetings at the National Coal Transportation Association meeting in Hilton Head, S.C., and the North American Rail Shippers Association meeting in San Francisco, Cal.[2]

Earlier this year, the Board Members wrote to BNSF Railway Company (BNSF) and Canadian Pacific Railway Company (CP) [3] to express their concerns that poor service was negatively affecting agricultural, coal, passenger, and other traffic. At the Board's request, senior management representatives of BNSF and CP have met individually with Board Members on a number of occasions, and the Board

[1] These proceedings are not considered. A single decision is being issued for administrative convenience.

[2] The Board's upcoming hearing is not intended to replace the informal and confidential process facilitated by OPAGAC, and shippers and railroads are encouraged to continue communicating through that office.

[3] *See* Letter from Daniel R. Elliott III, Chairman, and Ann D. Begeman, Vice Chairman, STB, to Carl Ice, President and Chief Exec. Officer, BNSF Ry. Co. (Feb. 5, 2014) (on file with the Board), *available at http://stb.dot.gov* (open tab at ''E-Library,'' select ''Correspondence,'' select ''Fall Peak Letters,'' follow ''02/05/2014'' hyperlink, and select the ''.pdf'' icon); Letter from Daniel R. Elliott III, Chairman, and Ann D. Begeman, Vice Chairman, STB, to E. Hunter Harrison, Chief Exec. Officer and Dir., Canadian Pac. Ry. Co. (Mar. 6, 2014) (on file with the Board), *available at http://stb.dot.gov* (open tab at ''E-Library,'' select ''Correspondence,'' select ''Fall Peak Letters,'' follow ''03/06/2014'' hyperlink, and select the ''.pdf'' icon).

requested certain additional reporting data from the two railroads.

On April 10, 2014, the Board held a public hearing at its offices in Washington, DC, to address service problems affecting the United States rail network. Because service problems for many commodities have been particularly acute on the systems of CP and BNSF, the Board directed representatives of those carriers to testify at the April 10 hearing. During the hearing, representatives of the railroad industry described several factors that contributed to the deterioration of rail service, including strained track capacity, unexpected volume growth, crew and personnel shortages, lack of locomotives, severe weather, and congestion at major gateways, in particular, Chicago, Ill. CP's President and Chief Operating Officer estimated that CP's service would be restored to normal in four to six weeks ''if everyone does their part.'' [4] BNSF committed to moving last year's crop prior to the fall harvest.[5]

A large number of shippers representing many different commodities expressed concerns about service during the hearing. Farmers and representatives of agricultural producers expressed concern about the negative effects of delayed fertilizer deliveries, backlogged grain car orders, and delayed shipments of loaded grain cars. Reported impacts resulting from these delays include little to no storage capacity at many grain elevators, risks of stored grain spoiling, lost sales, financial loss related to underutilization of shuttle trains, penalties incurred by grain shippers for products not delivered on time, buyers shifting to foreign suppliers, and damage to the reputation of the United States agricultural industry. Representatives of other industries described supply chain disruptions in shipments of coal, chemicals, feed, sugar, and paper, among other commodities. Amtrak's Vice President for Operations described the serious effects that rail network congestion and delays have on passenger service.

In response to testimony about delayed and curtailed fertilizer deliveries and the severe impact such delays would pose for spring planting, on April 15, 2014, the Board directed CP and BNSF to provide their plans to ensure delivery of fertilizer shipments,[6] and to provide status reports regarding such deliveries over a six week period. The Board understands that fertilizer deliveries largely met demand for spring planting in a timely manner. Among other steps, BNSF added cars to the existing fertilizer service fleet and allowed locomotives to remain with fertilizer trains during loading and unloading to reduce potential delays and provide expedited turn around service at origin and destination. In this way, over the six week reporting period, BNSF moved 56 trainloads of fertilizer (ranging from 65–85 cars) in BNSF-direct unit train service. CP moved 2636 fertilizer carloads over the six week reporting period.

The Board has continued to monitor CP's and BNSF's progress in moving the 2013 crop. Recognizing the limited time until the next harvest, the large quantities of grain that remained to be moved, and the Board's concerns about the railroads' paths towards meeting their respective commitments, on June 20, 2014, the Board directed CP and BNSF to provide and/or update their respective plans to reduce the backlog of unfilled grain car orders, to resolve grain car delays,[7] and to provide weekly status reports regarding the transportation of grain [8] on their networks (for CP, on its United States network).

BNSF has made considerable documented progress in reducing not only the number of backlogged orders, but also the average number of days late for such orders. Most of BNSF's remaining backlogged orders are now less than 20 days late, and the majority of those orders are less than 10 days late.[9] BNSF has also committed to a substantial infrastructure investment and has reallocated resources to improve its service performance.[10]

CP's reporting does not substantiate similar progress. A sizeable backlog remains on CP's system, and CP does not appear to be making sufficient progress towards eliminating the backlog based on its status reports.[11] This problem is compounded by the fact that, according to CP, the actual size of the backlog is indeterminate.[12] CP's average days late metric, reported either in weeks or days, also has not improved.[13] The data suggests that CP will not be able to clear the backlog prior to this year's harvest, which has already started for some commodities in some regions. In addition, the data raises concerns for the Board regarding whether CP's interchange with the Rapid City, Pierre & Eastern Railroad, Inc. (RCP&E) has been fluid and reliable enough to reduce the grain car backlog on RCP&E's South Dakota railroad line, which CP owned until recently. RCP&E became the new operator of the western portion of the Dakota, Minnesota & Eastern Railroad sold by CP through an agreement executed May 31, 2014.[14] RCP&E is now the primary carrier for much of South Dakota's grain, and relies heavily on CP for locomotive power, cars, interchanges, and through service for its customers.

In addition, the U.S. Department of Agriculture has forecasted that the harvest for the 2014–2015 season will be at above average or record levels for many grains,[15] meaning that the volume of grain that needs to be shipped by rail will again be above average over the coming months. As the new harvest ramps up, storage space at many elevators reportedly is already unavailable or very limited. As a result,

[4] Hr'g Tr., at 253, *U.S. Rail Serv. Issues,* EP 724 (Apr. 10, 2014).

[5] Letter from Carl R. Ice, President and Chief Exec. Officer, BNSF Ry. Co., to Daniel Elliott, Chairman, Ann Begeman, Vice Chairman, and Debra Miller, Comm'r, STB (May 7, 2014), at 2, *available at http://stb.dot.gov* (open tab at ''E-Library,'' select ''Correspondence,'' select ''Fall Peak Letters,'' follow ''05/07/2014'' hyperlink, and select the ''.pdf'' icon); Letter from Carl R. Ice, President and Chief Exec. Officer, BNSF Ry. Co., to Daniel Elliott, Chairman, Ann Begeman, Vice Chairman, and Debra Miller, Comm'r, STB (June 4, 2014), at 2, *available at http://stb.dot.gov* (open tab at ''E-Library,'' select ''Correspondence,'' select ''Fall Peak Letters,'' follow ''06/04/2014'' hyperlink, and select the ''.pdf'' icon).

[6] *U.S. Rail Serv. Issues,* EP 724 (Sub-No. 1), slip op. at 1 (STB served Apr. 15, 2014).

[7] *U.S. Rail Serv. Issues—Grain,* EP 724 (Sub-No. 2), slip op. at 3 (STB served June 20, 2014).

[8] For purposes of this order, the term ''grain'' shall refer to, and include the following Standard Transportation Commodity Codes: 01131 (barley), 01132 (corn), 01133 (oats), 01135 (rye), 01136 (sorghum grains), 01137 (wheat), 01139 (grain, not elsewhere classified), 01144 (soybeans), 01341 (beans, dry), 01342 (peas, dry), and 01343 (cowpeas, lentils, or lupines).

[9] BNSF Status Report, Attach. C, *U.S. Rail Serv. Issues—Grain,* EP 724 (Sub-No. 2) (filed Aug. 8, 2014).

[10] BNSF Hr'g Ex. 19, *U.S. Rail Serv. Issues—Grain,* EP 724 (filed Apr. 10, 2014).

[11] CP Status Report, App. 1, *U.S. Rail Serv. Issues—Grain,* EP 724 (Sub-No. 2) (filed Aug. 8, 2014).

[12] CP Status Report, *U.S. Rail Serv. Issues—Grain,* EP 724 (Sub-No. 2) (filed June 27, 2014); CP Status Report, *U.S. Rail Serv. Issues—Grain,* EP 724 (Sub-No. 2) (filed July 7, 2014) (stating that under CP's unique grain car request system, the number of car requests is not an accurate measure for demand because a customer can make unlimited car requests, which are reported as ''unconstrained orders'' and are considerably higher than what CP estimates to be its actual backlog).

[13] *Compare* CP Status Report, App. 1, *U.S. Rail Serv Issues—Grain,* EP 724 (Sub-No. 2) (filed Aug. 1, 2014) *with* CP Status Report, at Annex 1, *U.S. Rail Serv. Issues—Grain,* EP 724 (Sub-No. 2) (filed June 27, 2014).

[14] RCP&E Consummation Notice, *Rapid City, Pierre & E. R.R.—Acquis. & Operation Exemption Including Interchange Commitment—Dakota, Minn. & E. R.R.,* FD 35799 (filed June 2, 2014).

[15] U.S. Dep't of Agric., World Agric. Supply & Demand Estimates 1–5 (Aug. 12, 2014), *http://www.usda.gov/oce/commodity/wasde/latest.pdf.*

some farmers are being forced to store grain on-site in bins, bags, or on the ground, or to truck grain to distant elevators. The Board remains very concerned about rail service to the agricultural industry going forward, particularly in the Midwest and central Northern region of the rail network.

Because of these ongoing concerns, the Board will direct CP and BNSF to provide additional information in their weekly status reports in Docket No. EP 724 (Sub-No. 2). The Board will direct CP to state in its weekly status reports the number of locomotives moving outbound from the RCP&E system onto CP's system and the number of locomotives moving inbound to the RCP&E system from CP. The Board will also direct CP to provide, together with its weekly status report due on August 22, 2014: (1) A plan to ensure that RCP&E can maintain locomotive resources on the RCP&E system sufficient to support outbound train movements, and in particular to work through backlogged grain shipments; and (2) an updated plan to reduce CP's backlog of unfilled grain car orders and resolve grain car delays on its United States network, including its timeline for doing so. In order to better track BNSF's progress with regard to grain shuttle transportation, the Board will direct BNSF to include in its weekly status reports its plan versus performance for grain shuttle trips, by region, updated to reflect the previous four weeks.

With regard to more general system metrics, based on information obtained since the hearing, it appears that the same issues continue to hinder the industry's recovery, and key measures of overall rail performance are not improving. Despite the concerted efforts of several carriers to acquire additional locomotives, expedite infrastructure improvement, augment personnel, and better coordinate seasonal maintenance, these key measures have not shown sustained improvement. Publicly available key metrics [16] such as system average train speed, dwell time at major terminals, and cars online reflect an industry that is still struggling to provide rail service at acceptable levels. System-wide train speeds are lower on average for most Class I carriers by two to three miles per hour, on a year-over-year comparison, and significantly slower than during periods of peak performance in the past. Dwell times at major terminals for most Class I railroads are up on average between three and five hours, reflecting congestion at major yards and slower interchanges. The number of cars online also remains elevated over previous years, reflecting not only growing demand for service, but also operational inefficiencies.

The Board continues to receive reports from coal-fired utilities, ethanol manufacturers, propane shippers, and others about growing cycle times, unreliable service, and the potential impact on rail shippers and receivers.[17] For example, utility coal shippers have reported increased cycle times and irregular delivery of unit trains, which, in some instances, have severely strained stockpile inventories. Some coal-fired plants have incurred significant costs by purchasing replacement power from the grid, or reducing their generation. Coal-fired plants have also expressed concerns over their ability to rebuild stockpiles and manage inventory going forward.

Based on the foregoing, the Board is considering whether additional steps may be necessary to facilitate the recovery of the rail system. Under its governing statute, the Board has a range of available tools that could be used for this purpose, depending on the scope and magnitude of the ongoing service problems. Although the Board strongly favors private sector resolutions, further regulatory action may be warranted for expediting the overall recovery or alleviating particularly intractable service failures. The Board is also aware that any such action should not benefit one industry at the expense of others, or spur unintended consequences.

As part of its efforts to address service issues, the Board will hold a field hearing to discuss these issues with stakeholders from the most severely impacted regions. The hearing will be held on September 4, 2014 beginning at 8:00 a.m., at the Hilton Garden Inn located at 4351 17th Avenue South, Fargo, N.D., to provide an opportunity for interested persons to report on the status of rail service and to discuss ways to remedy the current service problems. The Board will direct executive-level officials from CP and BNSF to appear at the hearing to discuss their ongoing and future efforts to improve service on their railroads and to provide an estimated timeline for a return to normal service levels. The Board particularly encourages impacted shippers and/or shipper organizations to appear at the hearing to discuss their service concerns and to comment on the railroads' progress and plans. Also, given that the service disruptions have hindered nearly all carriers, other Class I railroads and other affected carriers are invited to appear at the hearing.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. A public hearing will be held on September 4, 2014 at 8:00 a.m., at the Hilton Garden Inn located at 4351 17th Avenue South, Fargo, N.D., as described above.

2. CP and BNSF are directed to appear at the hearing.

3. By August 25, 2014, any person wishing to speak at the hearing shall file with the Board a notice of intent to participate (identifying the party and the proposed speaker). The notices of intent to participate are not required to be served on the parties of record; they will be posted to the Board's Web site when they are filed.

4. CP is directed to state in its weekly status reports in Docket No. EP 724 (Sub-No. 2), the number of locomotives moving outbound from the RCP&E system onto CP's system and the number of locomotives moving inbound to the RCP&E system from CP.

5. CP is directed to provide with its weekly status report due on August 22, 2014, a plan to ensure that RCP&E can maintain locomotive resources on the RCP&E system sufficient to support outbound train movements, and in particular to work through backlogged grain shipments.

6. CP is directed to provide with its weekly status report due on August 22, 2014, an updated plan to reduce its backlog of unfilled grain car orders and resolve grain car delays on its United States network, including its timeline for doing so.

[16] *See* Railroad Performance Measures, *http://www.railroadpm.org* (for each participating railroad's individual performance measures, click the railroad's name under ''Performance Reports'' and then click the ''View 53 Week History'' tab) (last updated Aug. 6, 2014) (reporting data for the four most recent weeks and historical comparisons of previous month versus year-over-year quarterly average).

[17] *See, e.g.,* Xcel Energy Comments, *U.S. Rail Serv. Issues,* EP 724 (filed July 31, 2014) (expressing concern over BNSF's ability to delivery sufficient coal to Xcel Energy's electric generating stations); Senator Grassley Letter, *U.S. Rail Serv. Issues,* EP 724 (filed July 25, 2014) (providing a communication from Dairyland Power Cooperative regarding power plants in Wisconsin that are short of fuel due to BNSF delivery issues); Senators Levin and Portman Letter, *U.S. Rail Serv. Issues,* EP 724 (filed July 8, 2014) (addressing impact of rail service problems on the auto industry); Growth Energy Letter, *U.S. Rail Serv. Issues,* EP 724 (filed Aug. 14, 2014) (describing concerns over efficient delivery of ethanol by rail across the country).

7. BNSF is directed to include in its weekly status reports in Docket No. EP 724 (Sub-No. 2), its plan versus performance for grain shuttle trips, by region, updated to reflect the previous four weeks.

8. This decision is effective on its service date.

Decided: August 18, 2014.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2014–19856 Filed 8–20–14; 8:45 am]

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Part II

Department of Agriculture

Food Safety and Inspection Service

9 CFR Parts 381 and 500
Modernization of Poultry Slaughter Inspection; Final Rule

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 381 and 500

[Docket No. FSIS–2011–0012]

RIN 0583–AD32

Modernization of Poultry Slaughter Inspection

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the poultry products inspection regulations to establish a new inspection system for young chicken and all turkey slaughter establishments. Young chicken and turkey slaughter establishments that do not choose to operate under the new poultry inspection system may continue to operate under their current inspection system. The Agency is also making several changes to the regulations that will affect all establishments that slaughter poultry other than ratites. This final rule is a result of the Agency's 2011 regulatory review efforts conducted under Executive Order 13563 on Improving Regulation and Regulatory Review.

DATES:

Effective Date: October 20, 2014.

Notification Date: All young chicken and turkey slaughter establishments will initially have until February 23, 2015, to notify their District Office in writing of their intent to operate under the New Poultry Inspection System (NPIS). Establishments that do not notify their District Office of their intent by February 23, 2015, will be deemed to have chosen the inspection system that they are currently operating under. Young chicken and turkey slaughter establishments that decide that they would like to convert to NPIS after the initial notification date may notify FSIS of their intent at any time after that date. The Agency will implement the NPIS in the additional establishments that intend to convert on a schedule consistent with Agency resources and readiness. The Agency intends to implement the NPIS in all young chicken and turkey establishments that choose to operate under the NPIS, regardless of when the establishment notifies FSIS of its intent to transition to the NPIS. However, the initial implementation wave will only include those establishments that submitted their notifications within the initial notification period.

After October 20, 2014, FSIS will begin selecting from those establishments that have notified FSIS of their intent to switch to the NPIS. The Agency will use a computerized ranking system to determine the schedule of establishments for implementation of the NPIS. This ranking system will take into consideration several factors, such as FSIS staffing needs, past performance of the establishment, the location of the establishment with respect to other federally-inspected establishments, and establishment readiness to transition to the NPIS. FSIS will implement the NPIS in phases by clusters of establishments in close geographic proximity to one another. The initial implementation wave will only include those establishments that notified FSIS of their intent to switch to the NPIS during the initial six-month notification period. FSIS expects that in subsequent years many more establishments will choose to transition to the new system. The Agency's implementation strategy for the NPIS is described in more detail in the preamble to this final rule.

Applicability Dates: The regulations that prescribe procedures for controlling visible fecal contamination in 9 CFR 381.65(f), the regulations that prescribe procedures for controlling contamination throughout the slaughter and dressing process in 9 CFR 381.65(g), and the regulations that prescribe recordkeeping requirements in 9 CFR 381.65(h) will be applicable as follows:

- In large establishments, defined as all establishments with 500 or more employees, on November 19, 2014;
- In small establishments, defined as all establishments with 10 or more employees but fewer than 500, on December 19, 2014;
- In very small establishments, defined as all establishments with fewer than 10 employees or annual sales of less than $2.5 million February 17, 2015.

FOR FURTHER INFORMATION CONTACT: Daniel Engeljohn, Assistant Administrator, Office of Policy and Program Development, FSIS, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250–3700, (202) 205–0495.

SUPPLEMENTARY INFORMATION:

Executive Summary

In January 2011, President Obama issued Executive Order (E.O.) 13563 on Improving Regulation and Regulatory Review. As part of this E.O., agencies were asked to review existing rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them accordingly. As a result of FSIS's regulatory review efforts conducted under E.O. 13563, on January 27, 2012, the Agency published a proposed rule to modernize poultry slaughter inspection (''*Modernization of Poultry Slaughter Inspection,*'' 77 FR 13512). This final rule adopts, with modifications, the provisions in the January 2012 proposal. FSIS is issuing this rule to facilitate pathogen reduction in poultry products, improve the effectiveness of poultry slaughter inspection, make better use of the Agency's resources, and remove unnecessary regulatory obstacles to innovation.

This final rule will establish a New Poultry Inspection System (NPIS) for young chicken and all turkey slaughter establishments. The NPIS will not replace, as was proposed, the current Streamlined Inspection System (SIS), the New Line Speed Inspection System (NELS), or the New Turkey Inspection System (NTIS). As such, young chicken and turkey slaughter establishments may choose to operate under the NPIS or may continue to operate under their current inspection system, i.e., SIS, NELS, NTIS, or Traditional Inspection, as modified by this final rule. Establishments that slaughter poultry other than young chickens or turkeys are not eligible to operate under the NPIS unless they obtain a waiver under the Salmonella Initiative Program. The Agency is not limiting the number of online inspectors in Traditional Inspection to two, as was proposed. FSIS will continue to staff all establishments that do not choose to operate under the NPIS with their current number of online inspectors.

The NPIS is designed to facilitate pathogen reduction in poultry products by shifting Agency resources to allow FSIS inspectors to perform more offline inspection activities that are more effective in ensuring food safety, while providing for a more efficient and effective online carcass-by-carcass inspection. Data from the Agency's Hazard Analysis and Critical Control Point Systems (HACCP)-Based Inspection Models Project (HIMP) pilot study,[1] which was used to inform the NPIS, show that an inspection system that provides for increased offline inspection activities that are more directly related to food safety results in greater compliance with sanitation and HACCP regulations, carcasses with

[1] See ''Evaluation of HACCP Inspection Models Project (HIMP), August 2011 (available on the FSIS Web site at: *http://www.fsis.usda.gov/wps/wcm/connect/fcd9ca3e-3f08-421f-84a7-936bc410627c/Evaluation_HACCP_HIMP.pdf?MOD=AJPERES*).

lower levels of visible fecal contamination, and carcasses with equivalent or lower levels of *Salmonella* contamination.

Key elements of the NPIS include: (1) Requiring that establishment personnel sort carcasses and remove unacceptable carcasses and parts before the birds are presented to the FSIS carcass inspector; (2) shifting Agency resources to conduct more offline inspection activities that are more effective in ensuring food safety, which will allow for one offline verification inspector per line per shift and will reduce the number of online inspectors to one; (3) replacing the Finished Product Standards (FPS), which will apply to establishments that continue operating under SIS, NELS, and NTIS, with a requirement that establishments that operate under the NPIS maintain records to document that the products resulting from their slaughter operations meet the definition of ready-to-cook (RTC) poultry; and (4) authorizing young chicken slaughter establishments to operate at a maximum line speed of 140 birds per minute (bpm), provided that they maintain process control.

Under all of the current inspection systems, online inspectors visually inspect every carcass, with its corresponding viscera, at fixed locations on the evisceration line immediately after separation of the viscera from the interior of the carcasses. The online inspectors are responsible for identifying unacceptable carcasses and parts, examining carcasses for visual defects, and directing establishment employees to take appropriate corrective actions if the defects can be corrected through trimming or reprocessing. The maximum line speeds authorized under the existing inspection systems reflect the time it takes for an inspector to effectively perform the online carcass inspection procedures required under these systems.

Under the NPIS, there will be one online carcass inspector (CI) and one offline verification inspector (VI) assigned to each evisceration line. As under the HIMP inspection system, VIs and CIs under the NPIS will have different but complementary roles in ensuring that poultry products leaving the slaughter line are safe and wholesome. Under the NPIS, CIs will conduct a continuous online inspection of each carcass at a fixed location immediately before the chiller to determine whether each carcass is not adulterated. CIs under the NPIS will be able to conduct a more efficient and effective online carcass inspection than online inspectors do under the current inspection systems because the CIs are presented with carcasses that have been sorted, washed, and trimmed by establishment employees, and are thus much more likely to pass inspection.

The VIs under the NPIS will conduct offline food safety-related inspection activities and will monitor and evaluate establishment process controls. The VIs will conduct carcass verification checks on carcass samples collected before the CI station to ensure that the establishment is effectively sorting carcasses and that it is producing products that comply with the Agency's zero visible fecal tolerance and other performance standards. The VI and CI will work with the inspector-in-charge (IIC) to ensure that the carcasses presented to the CI are not affected with food safety defects or other conditions at levels that may impair the CI's ability to effectively inspect each carcass. VIs will also perform offline activities in addition to carcass verification checks, such as verifying compliance with sanitation standard operating procedures (SOPs), sanitation performance standards (SPS), and HACCP regulatory requirements, and ensuring that the establishment is meeting all regulatory requirements and is effectively preventing contamination by enteric pathogens and fecal material throughout the entire slaughter and dressing process.

The fastest maximum line speed authorized under the current inspection systems is 140 bpm under the SIS for young chickens. To determine line speeds for SIS, FSIS conducted field and work measurement studies of online inspectors to determine the time needed for an inspector to perform the SIS inspection procedure. The studies showed that online inspectors can perform the SIS inspection procedure at line speeds of up to 140 bpm if each inspector is presented with up to 35 bpm. Thus, under SIS, establishments with automated evisceration equipment may operate at 140 bpm with four FSIS online inspectors assigned to the line. The maximum line speeds authorized under the other inspection systems are 91 bpm with three online inspectors for NELS, and 51 bpm for light turkeys with two online inspectors and 45 bpm for heavy turkeys with two online inspectors for NTIS. As noted in the proposed rule, Traditional Inspection is typically employed at smaller lower production volume establishments that eviscerate carcasses by hand (77 FR 4410). Thus, the maximum line speeds authorized under Traditional Inspection are slower than those under SIS, NELS, and NTIS. The maximum line speed for young chickens under Traditional Inspection is 64 bpm with four online inspectors. The maximum line speed for turkeys under Traditional Inspection is 39 bpm with three online inspectors.

As discussed in more detail later in this document, since 2007, HIMP young chicken establishments have been authorized to operate at line speeds of up to 175 bpm, depending on their ability to demonstrate consistent process control. Experience from the HIMP pilot shows that HIMP establishments operate with an average line speed of 131 bpm, and, although they are authorized to do so, most of the young chicken HIMP establishments do not operate line speeds at 175 bpm. Establishments determine their line speeds based on their equipment and facilities, bird size and flock conditions, and their ability to maintain process control when operating at a given line speed. In addition, line speeds under HIMP depend on the number of employees that the establishments hire and train to perform sorting activities. Although the maximum line speed under the NPIS is 140 bpm and not 175 bpm as authorized under HIMP, FSIS believes that establishments choosing to operate under the NPIS will determine their line speeds based on the same factors that establishments considered when setting line speeds under HIMP for the past 15 years.

Regardless of line speed, because HIMP and NPIS do not require that establishments configure their evisceration lines to accommodate more than one online carcass inspector, establishments operating under the NPIS will have greater control over their lines and greater flexibility over their production process. For example, as under HIMP, establishments operating under the NPIS will have the flexibility to reconfigure and consolidate lines if they determine that they need more space to conduct other activities in their facilities. In addition, because only one online inspector is required at the end of the line, establishments operating under the NPIS will not need to adjust their production based on the availability of FSIS inspection personnel to be stationed online. Establishment employees will staff the lines to perform the online sorting activities. Establishments that operate under NPIS will also have greater flexibility to increase production to respond to customer demands.

As under HIMP, in addition to having more control over their production process, establishments operating under the NPIS will also have more opportunities for innovation and greater flexibility to develop and implement certain types of new technologies. Currently, if an establishment operating

under the existing inspection systems wants to use new technologies for evisceration or for sorting, the establishment must work directly with the Agency to accommodate FSIS's online slaughter inspection methodologies. Doing so takes time and can become an obstacle to innovation. Under the NPIS, establishments will have direct control of the sorting process within their facilities and therefore will have the flexibility to implement and assess the technologies they think are beneficial to their operations.

In addition to the NPIS for young chickens and turkeys, this final rule includes changes to the regulations that will apply to all establishments that slaughter poultry other than ratites. Under this final rule, all poultry slaughter establishments must develop, implement, and maintain written procedures to ensure that carcasses contaminated with visible fecal material do not enter the chiller, and they must incorporate these procedures into their HACCP plans, or sanitation SOPs, or other prerequisite programs (also referred to collectively as ''the HACCP system'' in this document). This final rule also requires that all poultry slaughter establishments develop, implement, and maintain written procedures to prevent contamination of carcasses and parts by enteric pathogens and fecal material throughout the entire slaughter and dressing operation, and that they incorporate their procedures into their HACCP systems. At a minimum, these procedures must include sampling and analysis for microbial organisms at the pre- and post-chill points in the process to monitor process control for enteric pathogens, with some exceptions for very small and very low volume establishments. Establishments will be required to maintain daily records sufficient to document the implementation and monitoring of these procedures. These new requirements will ensure that all poultry slaughter establishments implement appropriate measures to prevent contamination of carcasses by enteric pathogens and visible fecal material and that both FSIS and establishments have the documentation they need to verify the effectiveness of these measures on an ongoing basis.

FSIS is also rescinding the regulation that requires that poultry establishments test carcasses for generic *E. coli* to monitor for process control. The generic E. coli regulations will be replaced by the new testing requirements described above. The new testing requirements will allow establishments to develop sampling plans that are more tailored, thus more effective in monitoring their specific process control than the current generic E. coli criteria. The Agency has concluded that the use of generic *E. coli* as an indicator for process control may not be as useful in broiler operations as originally thought. The Agency is taking this action to allow establishments to use other more relevant indicators of process control. The Agency established new performance standards for Salmonella and Campylobacter in 2011 to more effectively manage these pathogens (76 FR 15282). Therefore, FSIS is removing the codified *Salmonella* pathogen reduction performance standards for poultry.

Finally, FSIS is removing the prescriptive time and temperature parameters from the chilling requirements for RTC poultry and instead is requiring that poultry establishments incorporate procedures for chilling poultry into their HACCP systems. The Agency is also amending the regulations to permit poultry slaughter establishments to use (1) approved online reprocessing antimicrobial systems or (2) offline reprocessing antimicrobial agents including chlorinated water containing 20 ppm to 50 ppm available chlorine or other antimicrobial substances that have been approved as safe and suitable for reprocessing poultry. Establishments will be required to address the use of online or offline reprocessing in their HACCP systems.

TABLE 1—ESTIMATED NET SOCIAL BENEFITS FROM THE RULE (MILLIONS OF DOLLARS), ANNUALIZED OVER 10 YEARS WITH A 7% DISCOUNT RATE, FOR VARYING PERCENT CHANGES THAT SWITCH TO NPIS

[Percentage of Industry that Switches to NPIS]

	0%	10%	25%	50%	75%	90%	100%
NPIS:							
Benefits:							
Public health benefits (10%, 90%)	0.0	1.0 (0.3 to 1.7)	2.4 (0.8 to 4.3)	4.8 (1.6 to 8.7)	7.2 (2.4 to 13.0)	8.6 (2.9 to 15.7)	9.6 (3.3 to 17.4)
FSIS net savings	0.0	2.3	5.7	11.4	17.1	20.5	22.8
Unquantified benefits	Increased flexibility for establishments to design and implement production measures tailored to their operations, in some cases possibly including increased line speed up to 140 chickens or 55 turkeys per minute						
Costs:							
Costs to establishments	0.0	1.6	4.0	8.0	12.0	14.4	16.0
Unquantified costs	Industry cost of responding to new NPIS inspections in a manner that may lead to public health benefits (e.g., discarding contaminated food or cooking it longer)						
Mandatory Component:							
Costs to establishments	9.1	9.1	9.1	9.1	9.1	9.1	9.1
Unquantified benefits	Potential additional public health benefits from documentation and testing						
Unquantified costs	Industry cost of responding to information generated by documentation and testing in a manner that may lead to public health benefits (e.g., discarding contaminated food or cooking it longer)						
Total benefits (10%, 90%)	0.0	3.3 (2.6 to 4.0)	8.1 (6.5 to 10.0)	16.2 (13.0 to 20.1)	24.3 (19.5 to 30.1)	29.1 (23.4 to 36.2)	32.4 (26.0 to 40.2)
Total costs	9.1	10.7	13.1	17.1	21.1	23.5	25.1
Net benefits (10%, 90%)	−9.1	−7.4 (−8.1 to −6.7)	−5 (−6.6 to −3.1)	−0.9 (−4.1 to 3.0)	3.2 (−1.6 to 9.0)	5.6 (−0.1 to 12.7)	7.3 (0.9 to 15.1)

FSIS presents the costs and cost savings that would be generated over a range of assumptions with respect to how much of the industry will choose to adopt NPIS within five years. These estimates are scaled from an illustrative calculation that assumes that all 219 small and large non-Traditional establishments adopt NPIS, which, while used to calculate potential maximum effect, is not necessarily FSIS's assumption of the most likely outcome. Later portions of the regulatory impact analysis section contain discussion of the uncertainty surrounding the net benefits associated with how much of the industry will choose to adopt NPIS.

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I. Background

On January 27, 2012, FSIS published the proposed rule, ''*Modernization of Poultry Slaughter Inspection,''* to establish a new inspection system for young chickens and turkeys. Under the proposal, the new poultry inspection system (NPIS) would have replaced the current Streamlined Inspection System (SIS), the New Line Speed Inspection System (NELS), and the New Turkey Inspection System (NTIS). The NPIS that FSIS is adopting in this final rule is consistent with the inspection system that FSIS proposed in January 2012, with modifications, which are described below. However, in this final rule, FSIS is not eliminating SIS, NELS, or the NTIS, as was proposed. This final rule will leave all existing inspection systems in place to give establishments the flexibility to operate under the system that is best suited to their operations.

In the proposed rule, FSIS also proposed changes to the regulations that would apply to all establishments that slaughter poultry other than ratites. FSIS is adopting these proposed changes, with some modifications, which are also described below.

When FSIS issued the proposed rule, it initially gave the public until April 26, 2012, to submit comments. The Agency later extended the comment period until May 29, 2012. The public meeting and the Agency's decision to extend the comment period are discussed below.

Comment Period and Public Meeting

On March 21, 2012, FSIS held a public meeting with its National Advisory Committee on Meat and Poultry Inspection (NACMPI) via Web conference to discuss the January 2012 proposed rule to modernize poultry slaughter inspection. FSIS held the meeting in response to a request from certain members of the committee. At the meeting, FSIS provided an overview of the proposed rule and then held an open discussion with the committee members. A transcript of the public meeting is available on the FSIS Web site at: *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/advisory-committees/nacmpi.*

When the Agency held the public meeting, the comment period for the proposed rule was scheduled to close on April 26, 2012. At the public meeting, some of the committee members representing consumer advocacy organizations requested that FSIS extend the comment period. A coalition of consumer advocacy organizations also submitted a written request for the Agency to extend the comment period. On April 26, 2012, FSIS announced that it was extending the comment period until May 29, 2012 (77 FR 24873).

In the **Federal Register** document that announced the comment period extension, FSIS explained that during the comment period, the Agency had met with a coalition of consumer advocacy organizations and two trade associations representing the poultry industry to clarify certain aspects of the proposed rule to help inform their comments (77 FR 24873). Because the issues addressed in these meetings may have been relevant to the development of other stakeholders' comments, the **Federal Register** document summarized the issues raised at the meetings and the Agency's responses. In the **Federal Register** document, FSIS also requested additional comments on how it should implement the final rule resulting from the January 2012 proposal. The Agency also requested available data on potential worker safety issues associated with increased line speeds. In addition, the Agency explained that it had

received a request to hold a public technical meeting on the proposed rule, but that the Agency did not believe that such a meeting would be useful.

In developing this final rule, FSIS considered all comments submitted in response to the January 2012 proposed rule, as well as those provided at the NACMPI public meeting held in March 2012. Based on its analysis of the issues and of the information provided by the comments, FSIS made certain changes to, and clarified certain aspects of, the proposed regulations. Those revisions are summarized below and are discussed in detail in the Agency's responses to comments.

II. Summary of Modifications Made to the Proposed Rule

In this document, FSIS is finalizing, with some changes, the provisions in the January 27, 2012, proposed rule ''*Modernization of Poultry Slaughter Inspection''* (77 FR 4408). The Agency is modifying the proposal to:

- Change the maximum line speed permitted under the NPIS to 140 bpm for young chickens, for entities that chose to operate under NPIS. The maximum line speed for turkeys will be 55 bpm, as was proposed;
- Leave all existing poultry inspection systems in place and allow young chicken and turkey slaughter establishments that do not choose to operate under the NPIS to continue to operate under their current inspection system;
- Continue to staff all establishments that do not choose to operate under the NPIS with the number of online inspectors that they currently have;
- Allow young chicken establishments that currently operate under HIMP through a *Salmonella* Initiative Program (SIP) waiver to continue to operate under a waiver to run at a maximum line speed of up to 175 bpm;
- Update the SIP waivers for young chicken establishments currently operating under HIMP to remove aspects of HIMP that are inconsistent with the NPIS;
- Establish a phased approach to implement the NPIS in geographic clusters;
- Establish separate applicability dates for large, small, and very small establishments to comply with the provisions in the rule that prescribe the new recordkeeping and microbiological sampling requirements that will apply to all establishments that slaughter poultry other than ratites. The applicability dates will provide additional time for small and very small establishments to comply with these provisions;
- Revise the facilities requirements for the NPIS to require that the online carcass inspection platform be height adjustable;
- Clarify that the records that establishments operating under the NPIS are required to maintain to document that the products resulting from their slaughter operations meet the definition of RTC poultry are subject to review and evaluation by FSIS personnel;
- Revise the proposed regulation that prescribes maximum line speed rates under the NPIS to emphasize establishments' existing legal obligation to comply with the Occupational Safety and Health Administration's regulations;
- Establish a new subpart in the regulations that requires each establishment that participates in the NPIS to submit on an annual basis an attestation to the management member of the local FSIS circuit safety committee stating that it maintains a program to monitor and document any work-related conditions of establishment workers. Current young chicken HIMP establishments that will be operating under the updated SIP waivers described above will be required to submit the annual attestation as a condition of their updated waivers;
- Permit very small and very low volume establishments to conduct sampling for microbial pathogens only at the post-chill point in the slaughter and dressing process to monitor their process control procedures instead of requiring sampling at pre- and post-chill, as was proposed;
- Prescribe a minimum frequency with which all establishments that slaughter poultry other than ratites will need to conduct testing for microbial organisms to monitor the effectiveness of their process control procedures; and
- Revise the definition for ''air chill'' to allow an antimicrobial intervention to be applied with water at the beginning of the chilling process if its use does not result in any net pick-up of water or moisture during the chilling process. The initial antimicrobial intervention may result in some temperature reduction of the product if the majority of temperature removal is accomplished exclusively by chilled air.

In addition, because the proposed pre- and post-chill sampling requirements will not apply to ratite slaughter establishments, FSIS is retaining the generic *E. coli* testing regulations as they apply to ratites only, but is rescinding the provisions in these regulations that apply to all other poultry classes. Poultry establishments other than establishments that slaughter ratites will be required to comply with the new sampling requirements prescribed in this final rule.

III. Comments and Responses

FSIS received over 250,000 comment letters in response to the January 2012 proposed rule. Most comments were submitted as part of organized write-in campaigns. The Agency also received a petition that included approximately 150,000 signatures and form letters before the comment period closed. The Agency received two petitions in November 2012, after the comment period had closed. One of these petitions included approximately 180,000 signatures and 13,000 comments, and the other included over 3,500 signatures. FSIS received an additional petition in September 2013 with approximately 43,000 signatures. All of the petitions requested that the Agency withdraw the proposed rule. The issues raised in the petitions and comments submitted in November 2012 and September 2013 are similar to the issues raised by the petition and comments submitted during the comment period. Therefore, the Agency will address the issues raised in all of the petitions and associated comments in this document.

Most of the individual comments were submitted as part of various write-in campaigns initiated by consumer advocacy organizations, labor unions, animal welfare organizations, and worker and human rights advocacy organizations. FSIS also received individual comments from private citizens, inspection personnel, and members of labor unions.

In addition to the individual comments, form letters, and petitions, the Agency also received approximately 120 separate comment letters from trade associations representing the poultry industry, companies that conduct poultry slaughter operations, consumer advocacy organizations, public health organizations, labor unions, animal welfare advocacy organizations, members of academia, a State Department of Agriculture, and worker/immigrant/human rights advocacy organizations. Following is a summary of the comments and FSIS's responses.

A. NACMPI Meeting and Public Process

Comments: Several consumer advocacy organizations expressed their concern that FSIS published the proposed rule in the **Federal Register** before it consulted with the NACMPI. According to the comments, the Agency

is required to consult with members of the NACMPI before proposing changes to its meat and poultry inspection program, and that the Agency should have consulted with the NACMPI before publishing the proposed rule to modernize poultry slaughter inspection.

Response: FSIS held the March 21, 2012, NACMPI public meeting in response to a request from certain committee members representing consumer advocacy organizations that the Agency convene the committee to discuss the proposed rule. At the meeting, FSIS made clear that it was interested in the committee's comments and suggestions, but that the Agency was not seeking consensus from the committee.

FSIS disagrees that the Agency was required to consult with the NACMPI before proposing changes to its poultry inspection program. Under the Federal Meat Inspection Act (FMIA) and Poultry Products Inspection Act (PPIA), the Secretary is authorized to ''appoint advisory committees consisting of such representatives of appropriate State agencies . . . to consult with him concerning State and Federal programs with respect to [meat and poultry] inspection and other matters within the scope of this chapter . . .'' (21 U.S.C. 661(a)(4) and 21 U.S.C. 454(a)(4)). The Secretary of Agriculture established the NACMPI to provide advice concerning State and Federal programs with respect to meat and poultry inspection, food safety, and other matters that fall within the scope of the FMIA and PPIA. Under the NACMPI Charter, FSIS consults with the committee in carrying out its specific responsibilities under 21 U.S.C. 607(c), 624, 645, 661(a)(3), and 661(c) of the FMIA and 21 U.S.C. 454(a)(3), 454(a)(4), 454(c), 457(b), and 460(e) of the PPIA. These sections address: Type styles and sizes of labeling; definitions and standards of identity or composition; standards of fill of container; consistency of Federal and Federal-State standards; storage and handling regulations; exemption of establishments subject to non-Federal jurisdiction; Federal provisions applicable to State or Territorial business transactions of a local nature and not subject to local authority; scope of cooperation; and State meat inspection requirements. Thus, the NACMPI charter does not require that FSIS consult with the NACMPI before proposing changes to its poultry inspection program, although the Agency conducted a public meeting after the proposed rule was issued to seek feedback on the proposal.

Comment: Some consumer advocacy organizations noted that FSIS decided not to hold a technical public meeting as requested by a coalition of consumer advocacy organizations.

Response: As stated in the **Federal Register** comment period extension document, FSIS decided not to hold a public technical meeting on the proposed rule because the Agency did not believe that such a meeting would be useful (77 FR 24873). In April 2012, in response to a request from a group of consumer advocacy organizations, FSIS extended the comment period for the proposed rule. In the **Federal Register** document that announced the comment period extension, FSIS summarized issues that were raised in separate meetings with consumer and industry stakeholders and clarified certain aspects of the proposed rule to help inform stakeholder comments. In that document, the Agency also provided additional information on worker safety issues and its tentative strategy to implement the NPIS, and it solicited comments and data on both issues. As such, FSIS provided the public with all of the information it might have during a technical meeting, but through the public comment process. Thus, the process for developing this final rule was open and transparent and provided several opportunities for stakeholder input.

Comment: One public health association said that FSIS failed to comply with E.O. 12866 and E.O. 13563 requirements with respect to public participation. The comment said E.O. 13563 requires that agencies make all of the documents they rely on to justify rules available to the public, and FSIS did not do so. According to the comment, as of May 19, 2012, more than 80 days after the proposal was published, there were only two documents in the public record posted by USDA at Regulations.gov, the January 27, 2012, and April 26, 2012, **Federal Register** document. The comment said that only 12 records are posted on the FSIS Web site. According to the comment, the public is unable to provide informed comments when the underlying records used to develop the proposed rule are not available for review.

A labor union criticized the Agency for publishing a complex statistical analysis while providing little raw data in the supporting documents. The comment also questioned whether the comment period for the proposed rule provided sufficient time for stakeholders to adequately consider the supporting data.

Response: The Agency plans to post supporting documentation for this final rule and future Agency rulemakings on Regulations.gov. Although FSIS acknowledges that the underlying records used to develop the proposed rule were not posted on Regulations.gov, the proposed rule and all related documents, including supporting materials, were posted on the FSIS Web site when the proposed rule published in the **Federal Register**. The supporting materials included the Evaluation of the HACCP-Based Inspection Models Project; the draft 2011 FSIS Risk Assessment for Guiding Public Health-Based Poultry Slaughter Inspection; the Agency's response to Peer Review Comments on its draft 2008 Risk Assessment for Guiding Public Health Risk-Based Poultry Slaughter Inspection; and the On-Line and Off-Line Reprocessing In-Plant Trial Analysis. The supporting data for the analyses in the Evaluation of the HACCP-Based Inspection Models Project are presented in tables in the report and in the appendices. The data and modeling methods used in the 2011 FSIS Risk Assessment for Guiding Public Health-Based Poultry Slaughter Inspection are also fully described in the Appendix to that document.

The proposed rule and the **Federal Register** document extending the comment period for the proposed rule were posted on both the FSIS Web site and Regulations.gov when those documents published in the **Federal Register**. The preamble to the proposed rule includes the FSIS Web site link to the related materials and supporting documents, and it explains that these documents are also available in the FSIS docket room. These materials have been available on the Agency's Web site during the entire comment period and remain available at: *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/federal-register/proposed-rules/proposed-rules-2012/!ut/p/a1/jZDBCoJAEIafpQeQnVURPdqCpaUikdleYsHVFsxdVuvQ06d0UpKcOf3w_XzMIIoKRFv2EjXrhWxZM2bq3CADB3sEojTwAwgTK8jdZIfBxgNwnQAeHoE8Sw-EgJtYK_sL48O_frRCYOqYxDWiivV3Q7SVREXFS65ZY2hei67nGhVKSyU7Xhr62fBung0TsIkuiE51gIcddCd7HyUWpPYc-PGPL7B8sHqci_dx64XC33wAFla5ew!!/?1dmy&current=true&urile=wcm%3apath%3a%2Ffsis-content%2Finternet%2Fmain%2Ftopics%2Fregulatory-compliance%2Fhaccp%2Fhaccp-based-inspection-models-project%2Fhimp-study-plans-resources%2Fpoultry-slaughter-inspection.*

With respect to the comment that said that FSIS did not provide sufficient time for public comment, E.O. 12866, as supplemented by E.O. 13563, states that agencies are to ''afford the public . . .

with a comment period that should generally consist of not less than 60 days.'' FSIS provided a 90-day comment period for the proposed rule and then extended it for an additional 30 days. The Agency believes that the public had ample time to consider the issues raised in the proposed rule and supporting documentation in order to develop their comments.

Comment: A consumer advocacy organization criticized the Agency for including the anticipated cost savings from the proposal in the Agency's 2013 proposed budget to Congress before the public comment period for the proposal closed.

Response: The Agency concluded that an open, transparent, and effective budgetary process requires that the Agency report on the rule and the associated estimated budget. In addition, the Appropriations Committee Report that accompanied the FY 2013 appropriations bill directs the Agency to notify the Committee of the status of the rule not later than September 15, 2012.[2]

B. The HIMP Report

In the proposed rule, FSIS explained that it was proposing to establish a new system of inspection for young chickens and turkeys based on its experience under the HACCP-based Inspection Models Project (HIMP) pilot study (77 FR 4421). As discussed in the proposal, FSIS initiated the HIMP pilot study in 20 young chicken and 5 turkey slaughter establishments on a waiver basis after the Agency implemented the 1996 HACCP regulations. Similar to the NPIS, under HIMP, establishment personnel are responsible for sorting carcasses, disposing of carcasses affected with conditions that would require that they be condemned, and conducting any trim and reprocessing that they believe necessary to correct removable defects.

In the HIMP inspection system, a single FSIS online carcass inspector (CI) visually inspects every carcass at a fixed point on the evisceration line immediately before the chiller. Under HIMP, an offline verification inspector (VI) is responsible for conducting system verification activities that the Agency has concluded will be more effective in ensuring food safety, such as conducting offline carcass verification checks for septicemia/toxemia and visible fecal contamination, collecting samples for pathogen testing, and verifying the effectiveness of an establishment's HACCP system by, among other activities, reviewing the establishment's HACCP plan and HACCP monitoring records, observing establishment employees performing tasks specified in the HACCP plan, reviewing and determining the adequacy of the corrective actions taken by the establishment when a deviation occurs, and conducting measurements of critical control points (CCPs). The Agency analyzed the data collected from the HIMP study and prepared a written report that presents an evaluation of the model tested (see the ''HIMP Report,'' available on the Agency's Web site at: *http://www.fsis.usda.gov/wps/wcm/connect/fcd9ca3e-3f08-421f-84a7-936bc410627c/Evaluation_HACCP_HIMP.pdf?MOD=AJPERES*).

The HIMP Report assesses FSIS inspection findings across four interrelated inspection activities:

1. Inspection of each carcass by the CI to determine whether the carcass is not adulterated and thus eligible to bear the mark of inspection.

2. Verification by VIs of the establishment's execution of its HIMP process control plan, under which establishment employees sort acceptable and unacceptable carcasses and parts.

3. Verification of the establishment executing its sanitation SOPs and HACCP system.

4. Verification of the outcomes of the establishment's HIMP process control plan, both organoleptic and microbiological.

Inspection of each carcass by the CI to determine whether the carcass is not adulterated. Based on an analysis of data collected from April 1, 2009, through March 31, 2011, the HIMP Report found that fewer than 0.0008 percent of the carcasses presented to the CI were affected with septicemia/toxemia, and fewer than 0.08 percent had visible fecal contamination. Despite these low rates, the CIs in HIMP establishments detected carcasses affected with septicemia/toxemia at a rate of 0.000004 percent or 4 per 100 million carcasses slaughtered and carcasses with visible fecal contamination at a rate of 0.0009 percent or 9 per 1 million carcasses slaughtered.

Verification by VIs of the establishment's execution of its HIMP process control plan. The HIMP Report compares the ratio of all offline inspection procedures conducted in HIMP and non-HIMP establishments in calendar year (CY) 2010. FSIS inspectors in HIMP establishments perform offline inspection procedures to verify that the establishments are properly executing their HIMP process control plans. This comparison shows that overall in CY 2010, FSIS offline inspection personnel performed 1.6 times more offline inspection procedures in HIMP establishments than in non-HIMP establishments.

Verification of the establishment executing its sanitation SOPs and HACCP system. The sanitation SOP and HACCP regulations are among the regulations most strongly related to public health. The HIMP Report's comparison of the ratio of offline inspection procedures performed in HIMP and non-HIMP establishments in CY 2010 shows that FSIS offline inspectors in HIMP establishments performed about 3.0 times more sanitation SOP and HACCP inspection procedures than offline inspectors performed in non-HIMP establishments. It also shows that offline inspectors in HIMP establishments performed 3.4 more HACCP procedures that include random verification of all HACCP requirements than inspectors in non-HIMP establishments.

The HIMP Report also compares health-related non-compliances in HIMP and non-HIMP establishments from CY 2006 through CY 2010. These data show that health-related non-compliance record (NR) rates at HIMP establishments are not statistically different from or are statistically lower for all inspection procedures considered. The HIMP Report also found that the rate of health-related non-compliances for visible fecal contamination from CY 2006 through CY 2010 is about 1.6 times lower in HIMP establishments than in non-HIMP establishments.

Verification of the outcomes of the establishment's HIMP process control plan, both organoleptic and microbiological. To assess the outcomes of establishment's process control plans in addressing visible food safety defects and defects related to the wholesomeness or quality of the product, referred to as ''other consumer protection'' (OCP) defects, FSIS developed performances standards for these defects based on the performance of non-HIMP establishments. The performance standards allow the Agency to compare the performance of establishments operating under HIMP and non-HIMP inspection systems in controlling visible food safety and OCP defects.

A comparison of the findings of the offline VIs in HIMP establishments for the two-year period April 1, 2009, to March 31, 2011, with the HIMP food safety defect performance standards show that the rate of septicemia/toxemia in carcasses processed in HIMP establishments (8 per 1 million or 0.0008 percent) is 125 times lower than

[2] House Appropriations Committee report, p. 23 (*http://appropriations.house.gov/uploadedfiles/hrpt-112-ap-fy13-agriculture.pdf*).

the HIMP performance standard (0.1 percent). The HIMP Report also found that the rate of visible fecal material on carcasses processed in HIMP establishments (fewer than 0.8 per thousand or 0.08 percent) is 19 times lower than the HIMP performance standards (1.5 percent). A comparison of the findings of the offline VIs in HIMP establishments for the two-year period January 1, 2009 through December 31, 2010, with the HIMP OCP performance standards show that OCP defects identified on carcasses processed in HIMP establishments averaged about half the corresponding OCP HIMP performance standard.

To assess the microbiological outcomes of HIMP establishments' process control plans, the HIMP Report analyzed data from FSIS's *Salmonella* verification testing program collected from CY 2006 through CY 2010. The HIMP Report compares the *Salmonella* percent positive rates in 20 HIMP broiler establishments, 64 non-HIMP comparison establishments, and all 176 non-HIMP broiler establishments. The analysis shows that *Salmonella* positive rates in HIMP establishments average about 80 percent of those in non-HIMP establishments.

In the preamble to the proposed rule, FSIS explained that the Agency had concluded, based on analysis of the two-year data sets of food safety and OCP defects, that establishments operating under the HIMP inspection system performed better than establishments operating under non-HIMP inspection systems with respect to rates of food safety defects and OCP defects that may affect the wholesomeness or quality of the product (77 FR 4419). Data on health-related NRs collected from CY 2006 through CY 2010 show that non-compliances for fecal contamination are lower in HIMP than in non-HIMP establishments and that HIMP establishments have a higher compliance with sanitation SOP and HACCP regulations. HIMP establishments also had equivalent or lower *Salmonella* positive rates than non-HIMP establishments. The Agency explained that it was proposing to establish a new poultry inspection system informed by HIMP that would replace the SIS, NELS, and NTIS inspection systems for young chickens and turkeys (77 FR 4421).

FSIS received several comments on the HIMP Report and the Agency's analysis of the data collected under the HIMP study. Comments from the poultry industry and trade associations representing the poultry industry generally agreed with the findings of the HIMP Report and supported the Agency's decision to establish a new poultry inspection system. Comments from private citizens, consumer advocacy organizations, labor unions, and members of academia raised issues and concerns regarding the data collected under HIMP and the Agency's conclusions based on the HIMP study results.

1. Data and Methods Used in the HIMP Report

Comment: Several comments from consumer advocacy organizations and private citizens questioned whether data collected under that HIMP study should be used to inform the NPIS. The comments said that the HIMP pilot has never been independently evaluated to determine whether the establishments operating under the HIMP inspection system are producing food that is as safe as product produced in establishments operating under non-HIMP inspection systems.

Response: FSIS disagrees with the comment. In 2002, after the Government Accountability Office (GAO) issued its December 17, 2001, report on HIMP [3] (referred to as the ''2001 GAO report''), FSIS contracted with a technical review team selected by the National Alliance for Food Safety to review and evaluate the data collected from young chicken establishments operating under HIMP. The review team focused on the validity of the HIMP study design and methodology to determine whether FSIS could use the organoleptic and microbial data collected under HIMP to compare the performance of establishments operating under HIMP and non-HIMP inspection systems. Overall, the review team found that the HIMP study design and methodology were valid and provided a useful and legitimate comparison of the HIMP and non-HIMP inspection systems. The review team's findings are described in the report: ''*Review of the HACCP-Based Inspection Models Project by the National Alliance for Food Safety Technical Team*'' [4] (also referred to as ''The Hargis Report'').

As stated in the report, ''[t]he review team noted some issues related to optimal design and interpretation, but finds that overall the data collected were both meaningful and useful and that the study was designed and conducted under real-world conditions and limitations.'' The review team also concluded that ''the overall design and methodology . . . were perhaps the best available options to allow for comparison of organoleptic data between the traditional and HIMP systems.''

Comment: One consumer advocacy organization noted that the HIMP Report said that the Agency's evaluations of microbiological and inspection findings are based on data for calendar years (CY) 2006 through 2010, with certain exceptions where only more recent data are available. According to the comment, the HIMP Report does not explain why certain data are missing or why time periods for comparisons are not uniform. The comment noted that the Agency only analyzed data from CY 2010 when comparing the ratio of offline inspection procedures performed in HIMP and non-HIMP establishments.

Response: The time periods for the data that were analyzed for the HIMP Report vary because not all data were available as computerized data sets. Data on the number of carcasses affected with food safety and OCP defects were not available as computerized data sets. FSIS field personnel manually collected these data and recorded the results on paper forms. To reduce the burden on its field personnel, FSIS decided that an analysis of two years' worth of these non-computerized data sets would be sufficient. The HIMP report data for the number of carcasses affected with food safety defects is from April 1, 2009, through March 31, 2011, and data for carcasses affected with OCP defects is from January 1, 2009, through December 31, 2010.

In the body of the HIMP Report, the Agency used computerized data collected from CY 2010 to compare the ratio of offline inspection procedures performed in HIMP and non-HIMP establishments. The Agency used data from 2010 for this analysis because it was the most recent data available. Tables C–2 and C–3 in the Appendix of the HIMP Report contain summary information on non-compliances with sanitation SOP and HACCP regulations and on the number of inspection procedures in HIMP and non-HIMP establishments from CY 2006 through 2010. The data for these years are similar to the data from CY 2010.

Comment: One comment noted that in the preamble to the proposed rule, the Agency compares findings (1) by VIs of OCP defects between January 1, 2009 and December 31, 2010; (2) by VIs of food safety defects between April 1, 2009 and March 31, 2011; and (3) by CIs of food safety defects between April 1, 2009 and March 31, 2011. The comment

[3] GAO, 2001. Food Safety: Weaknesses in Meat and Poultry Inspection Pilot Should Be Addressed Before Implementation: *http://www.gao.gov/new.items/d0259.pdf.*

[4] The Hargis Report is available for viewing by the public in the FSIS docket room and on the FSIS Web site at: *http://www.fsis.usda.gov/OPPDE/nacmpi/Nov2002/Papers/NAFS97.pdf.*

said that while these time periods are not very different, it is possible that the slight shifts were made to conceal results that would be less supportive, or that would even contradict Agency claims.

Response: The two-year period January 1, 2009 to December 31, 2010 was used to evaluate OCP defects, while the two-year period April 1, 2009, to March 31, 2011 was used to evaluate compliance with the HIMP food safety standards. Both of these comparisons used the most recent data available at the time. This is the reason for the different time periods.

2. HIMP as the Basis for the NPIS

Comment: A trade association representing the poultry industry stated that the HIMP pilot program has been successfully carried out for the last 13 years. The comment said that during that time, food safety records in establishments operating under the HIMP inspection system have been as good as those in non-HIMP establishments. The comment stated that the equivalent or lower pathogen rates in HIMP establishments compared to non-HIMP establishments, as documented in the HIMP Report, are evidence that the program has been successful. The comment noted that this success is especially significant given that the review team selected by the National Alliance for Food Safety determined that food safety performance standards provide a scientifically valid measure by which performance of HIMP establishments can be evaluated (Hargis et al. 2002). The comment stated that, based on the data, the trade association agreed with the Agency's conclusion that the NPIS is a positive step toward enhancing food safety.

On the other hand, several consumer advocacy organizations questioned whether it is appropriate for FSIS to use the HIMP study results to predict how establishments will perform when operating under the NPIS. The comments noted that the 2001 GAO report criticized FSIS for not randomly selecting establishments for the HIMP pilot study and questioned whether the data generated by the pilot could be used to predict how all of the young chicken establishments would perform if FSIS were to adopt the HIMP inspection system nationwide.

Several comments stated that because participation in the HIMP study was voluntary and required that poultry establishments meet additional food safety and OCP performance standards, participating establishments could be viewed as high performers with respect to food safety. The comments asserted that for this reason, data from the HIMP pilot may not represent what FSIS is likely to see when the majority of young chicken and turkey slaughter establishments begin to operate under the NPIS.

Response: The trade association comments support the agency proposal. With regard to concerns raised by the consumer advocacy organizations, FSIS addressed these issues in its comments on and response to the 2001 GAO Report. In that document, FSIS stated that although not randomly selected, there is evidence that volunteer establishments participating in the HIMP study are typical of the industry. The volunteer establishments represent diversity in geography, corporate structure, management styles, number of evisceration lines, product distribution patterns, inspection system in use prior to the pilot, and other variables. In addition, the Hargis Report, discussed above, noted that the establishments selected for the HIMP pilot represent the States supplying the majority of domestic chicken production and the size range of establishments included in the study are representative of almost 90 percent of chickens slaughtered in federally-inspected facilities in the United States. The Hargis Report noted that establishment design, equipment, and procedures within poultry establishments are relatively uniform. The report concluded that ''[i]t is very difficult to hypothesize a geographic or plant-selection bias in this study.''

Comment: Two consumer advocacy organizations stated that the NPIS is not an exact replica of the HIMP pilot, which raises further concerns about whether results from the HIMP pilot accurately reflect how establishments will perform under the NPIS.

Response: Although the NPIS is not an exact replica of HIMP, the NPIS was informed by the data collected under HIMP. These data demonstrate that an inspection system that combines the features described in this document, which include carcass sorting by establishment employees, a CI that conducts an inspection of each carcass before the chiller, and, most important, a VI that conducts more offline inspection activities that specifically focus on food safety, does not reduce the effectiveness and may, in fact, lead to better compliance with sanitation and HACCP regulations and in carcasses with lower levels of fecal contamination and equivalent or lower levels of *Salmonella* contamination.

In addition, as discussed in detail below, in the 2014 risk assessment, analysis of historical data shows a statistically significant correlation between specifically targeted unscheduled offline inspection procedures and reductions in *Salmonella* positive samples in young chicken slaughter establishments and *Campylobacter* positive samples in young turkey slaughter establishments. Modeled scenarios involving an increase in targeted inspection activities (specifically unscheduled offline inspection activities, rather than a randomly selected set of activities) suggest that implementing the NPIS would likely result in public health benefits. Assuming that the number of offline inspection procedures performed in all poultry slaughter establishments increase proportionately to the number of such procedures currently performed in HIMP establishments, FSIS's risk model predicts a likely public health benefit. Consistent with the underlying assumptions of the model, it is reasonable to conclude that inspection systems in which Agency resources continue the core online inspection activities while enhancing the frequency and focus of unscheduled offline activities directly related to food safety, such as HIMP and the NPIS, would likely result in a lower prevalence of carcasses contaminated with *Salmonella* and *Campylobacter,* which in turn would likely lead to fewer human illnesses.

Comment: One consumer advocacy organization criticized the Agency's evaluation of HIMP. The comment stated that the HIMP Report compares the current performance of HIMP establishments with performance levels observed from 1998–2000 when FSIS collected baseline data from establishments that later joined the HIMP pilot.

The comment also stated that the Agency failed to explain how the performance level of the bottom four establishments that entered the HIMP pilot is representative of approximately 200 other establishments more than a decade later.

Response: The Hargis Report, described above, concluded that the design of the HIMP pilot ''is generally appropriate for a field study of this nature, and the methodologies employed generally allow for interpretation and comparison of [HIMP versus non-HIMP inspection systems.]'' The Hargis Report also concluded that comparison of HIMP food safety and OCP performance levels with performance standards does provide a scientifically valid measure by which changes in food safety and OCP performance under HIMP can be assessed.

With respect to the comment that suggests that the HIMP OCP performance standards represent the performance level of the bottom four establishments that entered the HIMP pilot, the HIMP OCP performance standards are set at the 75th percentile of what was achieved under the Research Triangle Institute (RTI) baseline study of 16 young chicken establishments under non-HIMP inspection systems before they entered the HIMP study. Thus, the performance standards were set so that 25 percent of the establishments that entered HIMP would have to improve upon their baseline results in order to meet the more stringent standards.

3. Carcass Inspection Under HIMP

In the preamble to the proposed rule, FSIS explained that the Agency concluded that establishments operating under the HIMP inspection system performed better than establishments operating under non-HIMP inspection systems with respect to rates of food safety and OCP defects (77 FR 4419). With respect to food safety-related defects, the Agency noted that data collected from the HIMP study show that the levels of carcasses affected with septicemic or toxemic conditions (also referred to as ''septicemia/toxemia'') or visible fecal contamination in HIMP establishments is very low (77 FR 4415). The HIMP Report concluded that notwithstanding these very low levels, the data demonstrate that CIs in HIMP establishments effectively identify carcasses affected with septicemia/toxemia and visible fecal contamination. Several consumer advocacy organizations commented on this conclusion.

Comment: Some consumer advocacy organizations stated that the CI detection rate for visible fecal contamination and septicemia/toxemia is based on the assumption that the rates at which VIs detect these food safety-related conditions represents the level at which these conditions occur in the establishment. The comments questioned this assumption. The comments noted that in HIMP establishments, the VI collects eight 10-bird verification samples per line per shift. The comment asserted that there is no evidence to indicate that this sample size is sufficient to represent the true level of food safety defects on carcasses throughout the shift.

Response: FSIS disagrees that the CI detection rate is based on the assumption that the rate at which VIs detect carcasses affected with septicemia/toxemia or visible fecal contamination represents the level at which these conditions occur in the establishment. The CI detection rate is the rate at which CIs in HIMP establishments detected carcasses with these food safety-related conditions before the carcasses entered the chiller. It is not based on the VI detection rate.

FSIS believes that its sampling for food safety defects under HIMP is sufficient to reflect the level of food safety defects on carcasses processed in HIMP establishments. Statistically, given the sample design, the precision of an estimate of an establishment's level of food safety defects depends primarily on the total number of samples for an establishment collected over time.

The food safety performance standards, which are based on thousands of samples collected by a 3rd party contractor and reflect the level of food safety defects on carcasses processed in establishments before they entered the HIMP pilot, vary by defect category. The performance standard for septicemia/toxemia is 0.1 percent, and the performance standard for visible fecal contamination is 1.5 percent. When deciding the number of samples that FSIS should take to reflect an establishment's level of food safety defects over time, FSIS determined that collecting 80 birds per line per shift would provide an estimated defect rate that was close to the true defect rate.

For example, if the true defect rate for visible fecal contamination was 0.1 percent at an establishment that operated one line for two shifts, 300 days per year, taking an 80 bird sample per line per shift would give a total of 48,000 samples a year, per line. This number of samples, assuming a random distribution of defects throughout the year, would give FSIS an estimated defect rate between 0.72 and .128 percent with about 95 percent probability. Thus, FSIS believes that the specified sample size is sufficient to make general comparisons of average defect rates among establishments or lines.

Comment: One consumer advocacy organization stated that another reason that the VI detection rate may not represent the actual level of food safety-related defects in HIMP establishments is that statements it obtained from HIMP inspectors indicate that establishment employees take greater care to prevent and remove visible fecal contamination and to identify and remove septicemic/toxemic carcasses when they know that the VI inspector is getting ready to take a sample.

Response: The comments seem to suggest that establishment employees are able to manipulate the results of the VI's verification checks. FSIS disagrees.

As noted above, VIs in HIMP establishments collect scheduled verification samples that consist of eight 10-bird samples per line per shift. VIs also collect targeted, unscheduled 10-bird samples in response to VI or CI findings of excessive food safety or OCP carcass defects.

VIs in HIMP establishments collect scheduled and unscheduled verification samples for septicemia/toxemia and visible fecal contamination using the same offline verification methodology that offline inspectors in non-HIMP establishments use to collect samples for visible fecal contamination checks. In both HIMP and non-HIMP establishments, offline inspectors do not inform establishment employees when they collect verification samples and, equally important, take care to ensure that the samples represent the operating conditions in the establishment. Thus, there is no reason to believe that employees in HIMP establishments have any significant opportunity, and certainly no additional opportunity, to affect the results of the verification checks.

Comment: Some consumer advocacy organizations said that the data in the HIMP Report do not support the Agency's conclusion that CIs are able to identify carcasses affected with visible fecal contamination and septicemia/toxemia.

With respect to visible fecal contamination, one consumer advocacy organization stated that the data presented in the HIMP Report indicate that CIs did not detect 88 out of 89 birds with fecal contamination going down the line. The comment stated that the inspectors in the VI position who were able to examine both the inside and the outside of the bird detected visible fecal contamination on the carcass at approximately 90 times the rate that the CIs detected it. Another said that based on the data, it is reasonable to calculate that CIs failed to detect over a quarter of a million carcasses with fecal contamination in the 20 HIMP establishments within the two-year period of data collection.

With respect to septicemia/toxemia, one comment said that data presented in the HIMP Report indicate that CIs detect approximately 1 of every 200 carcasses affected by septicemia/toxemia. The comment said that this means that the CI does not detect 199 of every 200 carcasses affected with septicemia/toxemia.

Response: FSIS disagrees with the commenters' conclusions. The commenters' assessments are based on a

comparison of the results of the CI's carcass inspection and the VI's carcass verification checks and do not take into account the difference between the role of the CI and VI under HIMP. Under HIMP, the inspections performed by the VI and CI serve different purposes and are not done in the same way. Thus, the rate at which VIs identify food safety defects when conducting offline verification checks is not an appropriate basis for assessing whether the CI is conducting an effective inspection of each carcass leaving the slaughter line.

Under the HIMP inspection system, the VI and CI have different but complementary roles in ensuring that poultry products leaving the slaughter line are safe and wholesome. CIs are responsible for conducting a continuous online inspection of each carcass to determine whether it is not adulterated. The VI's role is very different. VIs collect carcass samples before the CI inspection station after the establishment has conducted sorting, trimming, and reprocessing activities to monitor and evaluate the establishment's process controls. The samples collected by VIs may be either ''scheduled'' or ''unscheduled.''

On the one hand, VIs collect eight randomly selected 10-bird samples per line per shift. These are referred to as the ''scheduled'' samples because the IIC schedules the collection of the eight sample sets before each shift. On the other hand, VIs also collect targeted, unscheduled 10-bird samples as directed by the IIC in response to VI or CI findings of excessive food safety or OCP carcass defects. These samples are in addition to the 80-bird scheduled samples. Because the VI's unscheduled samples are collected when excessive carcass defects have been identified, the results typically show higher rates of carcass defects than the VI's scheduled sampling results.

The VI detection rates in the HIMP report reflect the combined results of the VI's scheduled and unscheduled sampling and are thus are much higher than the rates that would have resulted had the VI only performed scheduled carcass sampling. Because CIs under HIMP perform an online inspection of each carcass, the CI detection rates are not subject to the same sampling bias introduced by the unscheduled sampling that VIs perform during high defect periods. Significantly, FSIS has not captured what percent of the defects found by VIs were found in scheduled as opposed to unscheduled sampling. Thus, the VI and CI detection rates are not comparable. Therefore, as stated above, the comparisons of the VI and CI detection rates cited by the comments do not provide a valid assessment of the CI's ability to conduct an effective online carcass inspection.

4. Public Health-Related Non-Compliances

In the proposed rule, the Agency noted that the HIMP Report shows that HIMP establishments have public health-related non-compliance record(NR) rates that are not statistically different from or that are statistically lower than the rates for non-HIMP establishments (77 FR 4416–4417). The Agency also noted that HIMP establishments had fewer NRs for visible fecal contamination than non-HIMP establishments. Several consumer advocacy organizations, FSIS inspectors, and a labor union commented on these conclusions.

Comment: Comments from inspectors, labor unions, and consumer advocacy organizations stated that the location of the establishment's critical control point (''CCP'') for food safety defects may prevent a CI from issuing an NR even if the CI detects such a defect. The comments noted that at the start of the HIMP pilot, the CCPs for visible fecal contamination and septicemia/toxemia were located before the FSIS carcass inspection station. The comments stated that before FSIS began collecting data to support the proposed rule, the Agency allowed the HIMP establishments to move their CCPs for fecal contamination and septicemia/toxemia to points after the CI. One comment said that the timing for allowing establishments to move CCPs to a point after the CI suggests that the primary purpose was to reduce the number of NRs issued to HIMP establishments for these conditions. Another comment said that the fact that CIs cannot issue an NR if they observe food safety defects before the CCP, affects the HIMP Report's CI detection rate statistics.

Response: FSIS disagrees with the suggestion that the location of the CCP with respect to the CI affects the comparison of NR rates between HIMP and non-HIMP establishments. The HIMP Report's analysis of NRs for visible fecal contamination in HIMP and non-HIMP establishments is based on a comparison of visible fecal NRs detected through offline verification activities, not on the CI detection rate, as suggested by one of the comments.

As noted above, the VI under HIMP collects carcass samples after establishment employees have sorted and trimmed the carcasses, but before the carcasses are presented to the CI. If the VI detects visible fecal contamination offline, the VI issues an NR because the establishment violated the Agency's zero tolerance for visible fecal contamination. If a CI observes a carcass with visible fecal contamination the CI stops the line to prevent the carcass from entering the chiller. The location of the establishment's CCP for food safety defects does not affect the CI's or VI's duties under HIMP. Thus, because the NR rate for visible fecal contamination under HIMP is based on the VI detection rate, the location of the CCP with respect to the CI inspection station does not affect the HIMP Report's analysis of visible fecal NRs.

With respect to the comment that suggested that the location of the CCP affects the CI detection rate statistics, the CI detection rate reflects the rate at which CIs stop the line to prevent carcasses with food safety defects from entering the chiller. Thus, contrary to the commenter's suggestion, the location of the CCP after the CI inspection station does not affect the CI detection rate.

Comment: One comment stated that the Agency provided no information to demonstrate that documentation policies and opportunities for documenting public health-related NRs were the same in HIMP and non-HIMP establishments. The comment stated that the 2001 GAO report on HIMP noted that after the switch to HIMP, a substantial number of establishments saw increased fecal NR rates. The comment said that the GAO report cited increased line speeds under HIMP as a potential factor for the increased rate of fecal NRs. The comment said that these findings suggest that the transition to HIMP may result in increased rates of fecal contamination.

Response: As noted in the Agency's comments on the 2001 GAO report, under HIMP, the Agency performs verification checks on approximately 80 carcasses per line per shift as opposed to verification on approximately 20 carcasses per line for fecal contamination under non-HIMP broiler inspection. In addition, VIs under HIMP perform more offline inspection activities that FSIS has concluded are more effective in ensuring food safety than inspectors perform in non-HIMP establishments. Thus, FSIS inspectors in HIMP establishments have more opportunities for detecting non-compliances with regulatory requirements that are directly related to public health than inspectors do in non-HIMP establishments. The procedures for documenting public-health related NRs are the same for both HIMP and non-HIMP establishments.

Although the GAO report cited increased line speeds in HIMP establishments as a potential factor for

the increased rate of fecal NRs, the Agency is not aware of any data to support this hypothesis. The increased rates of fecal NRs that occurred at the beginning of the HIMP pilot could just as easily be the result of increased monitoring under the HIMP inspection system rather than an increase in fecal contamination. Further, the final rule includes a maximum line speed of 140 bpm under the NPIS rather than the 175 bpm allowed in the HIMP pilot.

Comment: A consumer advocacy organization stated that it had recently acquired records of NRs written for visible fecal contamination within the last year from two HIMP establishments and two non-HIMP establishments. The comment stated that to the best of the commenter's knowledge, all of the establishments are large establishments with two production lines and two production shifts. The comment said that the non-HIMP establishments had 19 and 23 NRs for visible fecal contamination, respectively, and the HIMP establishments had 93 and 173 visible fecal NRs, respectively. The comment stated that these comparisons add to the concerns that the lower NR rates for HIMP establishments described in the HIMP Report may not be good indicators of the actual level of food safety defects on carcasses.

Response: Because the consumer advocacy organization did not indicate where it obtained the data or which establishments the data are from, FSIS is unable to respond to the comment in detail.

The HIMP Report's comparison of visible fecal NRs issued from offline verification checks in HIMP and non-HIMP establishments compares 'rates,' which adjust for the number of samples taken. The report shows that fecal NR rates at HIMP establishments are statistically lower than those in both the control set of 64 non-HIMP establishments and the 176 all non-HIMP comparison set. In addition, the rate of visible fecal material contamination on carcasses in HIMP establishments is about half that in non-HIMP establishments. Thus, when the sample is viewed as a whole and rates are the unit of comparison, the data show that HIMP establishments have both slightly lower visible fecal NR rates and slightly lower rates of visible fecal contamination than non-HIMP establishments.

The comparison included in the comment is based on NR rates from two HIMP establishment and two non-HIMP establishments and does not necessarily reflect the average NR rates for all HIMP establishments.

Comment: Another consumer advocacy organization stated that it had received records for the first shift of production for 11 young chicken and 3 young turkey HIMP establishments from FSIS through a Freedom of Information (FOIA) request. The organization analyzed documents that covered the period of January 2011 through August 2011. According to the comment, the overwhelming number of NRs filed for the 14 establishments was for visible fecal contamination found on the carcasses. The comment stated that out of 229 NRs filed from March to August 2011, 208 (90 percent) were for visible fecal contamination. Other comments referenced this finding.

Response: The analysis conducted by the consumer advocacy organization is not inconsistent with the conclusions in the HIMP Report. While it is true that a large percentage of public health-related NRs in poultry slaughter establishments are for visible fecal contamination, the occurrence of fecal contamination on carcasses in HIMP establishments is fewer than 8 per ten thousand carcasses, which is about 19 times lower than the HIMP performance standards. In addition, the rate of visible fecal material contamination on carcasses in HIMP establishments averages about half that in non-HIMP establishments (Table 3–7 in HIMP Report).

5. OCP Standards Under HIMP

In the preamble to the proposed rule, FSIS noted that data from the HIMP Report show that OCP defects identified on carcasses processed in HIMP establishments averaged about half the corresponding OCP HIMP performance standards (77 FR 4418). Based on the HIMP data, the Agency concluded that establishments operating under the HIMP inspection system performed better than establishments operating under non-HIMP inspection systems with respect to OCP defects. Several consumer advocacy organizations and some private citizens commented on this conclusion.

Comment: Some consumer advocacy organizations asserted that the OCP standards under HIMP were not stringent. The comments said that even with these less than rigorous OCP defect levels, HIMP establishments were still just meeting the standards.

Response: While there is likely to be some variation in performance among establishments, for the two year period from CY 2009 through 2010, FSIS verification data show that OCP defect levels in HIMP establishments averaged about half the corresponding OCP performance standards.

In addition, the HIMP OCP performance standards are set at the 75th percentile of what was achieved under the RTI's baseline study of the performance of 16 establishments before they entered the HIMP study. Thus, 25 percent of the establishments that entered HIMP have had to improve upon their baseline results to meet the more stringent standards.

Comment: One comment noted that the HIMP study's statistics on compliance with OCP performance standards are based on a sampling of up to 80 carcasses per slaughter line per shift of production. The comment asserted that when each slaughter line is processing upwards of 100,000 chickens per eight hour shift, this sample size is likely to be too small to accurately reflect the level of OCP defects on RTC carcasses produced by the establishment.

Response: FSIS disagrees with the comment. FSIS believes that its sampling for OCP defects under HIMP is sufficient to reflect an establishment's level of OCP defects. Statistically, given the sample design, the precision of an estimate of an establishment's level of OCP defects depends primarily on the total number of samples for an establishment collected over time.

The OCP performance standards, which are based on a tightening of the FPS for removable animal diseases and trim and dressing defects for establishments before they entered the HIMP pilot, vary by OCP defect category. For example the performance standard for OCP–1, Condition-Animal Diseases, is 1.7 percent, and the performance standard for OCP–3, Digestive Content (Ingesta), is 18.6 percent. When deciding the number of samples that FSIS should take to reflect an establishment's level of OCP defects over time, FSIS determined that collecting at most 80 birds per line per shift would provide an estimated defect rate that was close to the true defect rate. For example, if the true defect rate for OCP–1 defects was 1 percent at an establishment that operated one line for two shifts, 300 days per year, taking an 80 bird sample per line per shift would give a total of 48,000 samples a year, per line. Eighty samples are not always collected; but in general, close to this number were collected daily. It is reasonable to assume that the total number of samples would not be less than 90 percent, or 43,200 samples. This number of samples, assuming a random distribution of defects throughout the year, would give FSIS an estimated defect rate between 0.905–1.095 percent with about 95 percent probability. Thus, FSIS believes that the specified sample

size is sufficient to make general comparisons of average defect rates among establishments or lines.

6. Salmonella Positive Rates in HIMP Establishments

The HIMP Report compares *Salmonella* positive rates for HIMP young chicken slaughter establishments with a control set of 64 non-HIMP establishments and all 176 non-HIMP broiler establishments (77 FR 4418–4419). The data show that *Salmonella* positive rates are equivalent or lower in HIMP establishments than they are in non-HIMP establishments. The Agency concluded that the increase in offline inspection activities provided for under HIMP resulted in the initial lower levels of *Salmonella* contamination in HIMP establishments. Several consumer advocacy organizations and private citizens commented on the HIMP Report's analysis of *Salmonella* positive rates in HIMP and non-HIMP establishments and on the Agency's conclusions with respect to this analysis.

Comment: A consumer advocacy organization stated that the HIMP Report's analysis of the *Salmonella* positive rates for HIMP establishments may not reflect the rates for all establishments operating under HIMP. The comment noted that data from the Agency's *Salmonella* testing program show that the Agency collected data on *Salmonella* positive rates from only 14 HIMP establishments in 2006, 17 HIMP establishments in 2007, and 15 HIMP establishments in 2008. The comment noted that the Agency collected *Salmonella* data from only 10 of the 20 HIMP broiler establishments in 2010. The comment also said that the Agency provided no comparison on *Salmonella* results in the turkey establishments. One member of academia said that the Agency's microbial sampling and analysis under the HIMP pilot were not performed with adequate frequency or power to detect sporadic low-level contamination of carcasses.

Response: FSIS uses the same methodology to schedule and conduct verification sampling for *Salmonella* in both HIMP and non-HIMP establishments. Under the FSIS risk-based methodology for scheduling *Salmonella* verification sample sets, not all establishments are sampled every year. FSIS schedules up to 75 new sample sets each month. The establishments and products selected for sample sets are chosen according to a risk-based algorithm that involves sorting the list of eligible establishments and their respective products by certain criteria and selecting the top 75 from this list. Depending on the frequency of production, product type, and availability of resources, the time to complete a sample set ranges from less than two months to over a year. In establishments that produce more than one product subject to *Salmonella* verification testing, only one product is tested at a time. However, since the same method is used in both HIMP and non-HIMP establishments, *Salmonella* positive levels represent a valid means of comparing the performance of HIMP and non-HIMP establishments.

With respect to the comment that said that the Agency's microbial sampling and analysis under the HIMP pilot were not performed with adequate frequency or power to detect sporadic low-level contamination of carcasses, the sampling and analysis for *Salmonella* under the HIMP pilot was used to compare performance of both HIMP and non-HIMP establishments, not to detect sporadic, low-levels of contamination in HIMP establishments.

Comment: One consumer advocacy organization said that the Agency's conclusion that HIMP establishments have lower *Salmonella* positive rates than non-HIMP establishments is misleading because the HIMP Report compared *Salmonella* positive rates for HIMP establishments with all establishments operating under non-HIMP inspection systems. According to the comment, the Agency should have compared rates for HIMP establishments with the rates for comparably sized non-HIMP establishments.

Response: The HIMP Report compared *Salmonella* positive rates in HIMP establishments with both comparable non-HIMP establishments and all young chicken slaughter establishments. The first comparison set of establishments was a subset of 64 non-HIMP establishments selected to be comparable to HIMP establishments with respect to total slaughter volume, line speeds, and geographic distribution. The second comparison set was all 176 non-HIMP establishments that slaughtered young chicken in all 5 years considered in the study. The analysis shows that with respect to *Salmonella* positive rates, the HIMP establishments performed better than or as well as both the comparison set of 64 non-HIMP establishments and the set of all 176 non-HIMP establishments from CY 2006 through 2010.

Comment: A consumer advocacy organization asserted that the *Salmonella* positive rates in HIMP establishments do not support the Agency's claim that HIMP establishments have consistently performed better under HIMP than they did under non-HIMP inspection systems. The comment stated that the Agency's own *Salmonella* data from 1998–2007 demonstrate that 14 of the 20 HIMP establishments had lower *Salmonella* positive rates under the non-HIMP inspection systems than they did under the HIMP, and that the average *Salmonella* positive rate for all 20 of the HIMP establishments was better when the establishments were operating under non-HIMP inspection systems. The organization conducted its own analysis of the Agency's *Salmonella* data from January 1, 2006 through September 20, 2007 and said that its analysis shows that the HIMP establishments had an average *Salmonella* positive rate of 8.9 percent, while the non-HIMP establishments had an average rate of 6.5 percent.

Response: In CY 2006 through 2008, the *Salmonella* positive rate in HIMP establishments was statistically significantly lower than in the 64 non-HIMP comparison set, and there was no statistically significant difference in CY 2009 and CY 2010. A comparison of HIMP establishments with all non-HIMP broiler establishments shows that the *Salmonella* positive rate in HIMP establishments was statistically significantly lower in CY 2006 through 2009 and not statistically significantly different in CY 2010. This analysis demonstrates that with respect to *Salmonella* positives rates, HIMP establishments are performing at least as well as current non-HIMP establishments.

With respect to *Salmonella* data from January 1, 2006, through September 20, 2007, referenced by the comment, FSIS has analyzed the most recent data from that time period and found *Salmonella* positive rates of 7.55 percent and 9.61 percent for HIMP and non-HIMP establishments, respectively.

Comment: A consumer advocacy organization stated that in CY 2009 and CY 2010, HIMP establishments had higher *Salmonella* positive rates than the 64 non-HIMP comparison establishments. The comment noted that the HIMP Report shows that the rates for the HIMP establishment were 4.9 percent and 4.7 percent in CY 2009 and CY 2010, respectively, and the rates for the non-HIMP establishments for these years were 4.3 percent and 4.0 percent, respectively. The comment suggested that before moving forward with the NPIS, FSIS should first try to understand why this happened.

Response: FSIS disagrees with the comment's suggestion that HIMP establishments had higher *Salmonella* rates than non-HIMP establishment in CY 2009 and CY 2010. The differences

in *Salmonella* positive rates in CY 2009 and CY 2010 noted by the comment are not statistically significant. On the other hand, in CY 2006 through 2008, the *Salmonella* positive rate in HIMP establishments was statistically significantly lower than in the 64 non-HIMP comparison set.

Comment: Some consumer advocacy organizations stated that reductions in *Salmonella* positive rates may be the result of factors other than increased offline inspection procedures performed under the HIMP inspection system. The comments noted that from CY 2006 through 2008, *Salmonella* positive carcass rates in HIMP establishments were statistically significantly lower than in the non-HIMP comparison establishments, but that in CY 2009 and CY 2010, there was no statistically significant difference. The comments also noted that both HIMP and non-HIMP establishments lowered their *Salmonella* positive rates considerably between CY 2006 and CY 2010.

The comments asserted that because the Agency did not report any changes to the HIMP or non-HIMP inspection systems during that time, it is reasonable to assume that factors other than increased offline inspection activities in HIMP establishments may have caused such a significant decrease in *Salmonella* positive rates. One comment noted that in 2008 FSIS began publishing the names of establishments in Categories 2 and 3 under the Agency's new *Salmonella* performance standards. The comment stated that the data for CY 2009 and CY 2010 may indicate that the industry as a whole reduced its *Salmonella* positive rates as a result of this initiative. Another comment stated that the decline in *Salmonella* positive rates may have been caused by an increase in the use of online reprocessing technology throughout the industry.

Response: In the preamble to the proposed rule, the Agency explained that results in CY 2010 most likely reflect the effects of the *Salmonella* initiatives that FSIS began implementing in 2006 to reverse the multi-year trend of persistently higher percent positive rates for *Salmonella* detected through the Agency's HACCP verification testing each year (77 FR 4419). As a result of these initiatives, the industry reduced the incidence of positive *Salmonella* results, particularly those establishments with the highest *Salmonella* positive rates. Nonetheless, before these initiatives were fully implemented, the HIMP report shows that HIMP establishments performed better than non-HIMP establishments with respect to *Salmonella* positive rates. The reduction in *Salmonella* positive rates in both HIMP and non-HIMP establishments reflects the effectiveness of FSIS's initiatives to reduce *Salmonella* industry-wide.

Comment: One member of academia said that the Agency needs to conduct more frequent sampling for a broader range of pathogens to assess the impact of the HIMP inspection system.

Response: Salmonella is a key pathogen of concern in poultry products. FSIS conducts *Salmonella* verification sampling in both HIMP and non-HIMP establishments. Thus, *Salmonella* positive rates are a valid means of comparing the performance of both HIMP and non-HIMP establishments.

C. The Risk Assessment

The preamble to the proposed rule explained that in June 2011, FSIS completed a quantitative risk assessment to model how performing a greater number of sanitation, sampling, and other offline inspection procedures in young chicken and turkey slaughter establishments might affect the number of human illnesses from *Salmonella* and *Campylobacter* (77 FR 4420). FSIS updated the 2011 Risk Assessment in response to public comments received on the January 2012 proposed rule; that version of the risk assessment was subsequently posted to the FSIS Web site in August 2012 (referred to as the August 2012 version). In addition, the 2011 risk assessment was subjected to independent external peer review; the risk assessment was further updated in response to the peer review comments. It has also benefited from editing consistent with the Office and Management memorandum, *Final Guidance on Implementing the Plain Writing Act of 2010* (M–11–15), striving to make the risk assessment report language ''clear, concise, well-organized. The most recent version of the risk assessment, which reflects the revisions made in response to public and peer review comments, is referred to as the July 2014 version. Both the August 2012 version and the July 2014 versions have been posted to the FSIS Risk Assessment Web page at: *http://www.fsis.usda.gov/wps/portal/fsis/topics/science/risk-assessments.*

The HIMP Report explained that FSIS inspectors performed more offline inspections to verify compliance with sanitation SOP and HACCP regulations in HIMP establishment than they do in non-HIMP establishments. The regression analysis of historical data that was included in the risk assessment showed a statistically significant correlation between unscheduled offline inspection procedures and reduction in the prevalence of *Salmonella* and *Campylobacter* positive samples. Based on these results, FSIS thinks it is reasonable to conclude that the redeployment of Agency resources to unscheduled offline activities is likely to contribute to improved food safety resulting from a lower prevalence of carcasses contaminated with *Salmonella* and *Campylobacter,* which in turn we expect to lead to fewer human illnesses.

Comment: Several comments requested that the Agency clarify the status of the 2011 risk assessment's peer review. The comments noted that the Agency had prepared a risk assessment in 2005 that was peer reviewed. The comments said as a result of the peer review, the Agency prepared a revised risk assessment in 2008 but, according to the comments, the docket for the proposed rule contains neither the 2008 risk assessment nor a peer review of that risk assessment.

Response: The FSIS ''Risk Assessment for Guiding Public Health-Based Poultry Slaughter Inspection'' has been available to the public on the FSIS Risk Assessment Web site since 2008 at: *http://www.fsis.usda.gov/wps/wcm/connect/07c57a64-932f-4ebb-977b-2b10e45a1830/Poultry_Slaughter_Risk_Assess_Jan2008.pdf?MOD=AJPERES.* The analysis was originally peer reviewed in 2006 by an independent group of mathematical modeling specialists. The risk assessment was modified and improved based on the initial peer review. Because the model and analysis has continued to evolve, the 2011 version of both the model and analysis have undergone a peer review. The 2011 risk assessment has been updated based on the peer review comments. The 2011 risk assessment, the peer review comments, FSIS's response to those comments, and the current version of the risk assessment are available on the FSIS Web site at: *http://www.fsis.usda.gov/wps/wcm/connect/8f374626-ee06-49d3-9d41-6eb65ad32cbb/Poultry_Slaughter_Risk_Assess_Aug2012.pdf?MOD=AJPERES.*

Comment: A consumer advocacy organization said that the risk assessment provides little raw data, little explanation of how it was analyzed, and is largely silent on the assumptions upon which it was based. A comment from a labor union was also critical of the FSIS risk assessment.

Response: FSIS generally disagrees with the comments. The risk assessment uses all relevant data taken from FSIS's inspection database paired with *Salmonella* and *Campylobacter* regulatory and baseline sampling data for young chickens and turkeys. Overall,

substantial amounts of empirical data were used in this risk assessment. It uses the Young Chicken Baseline and PR/HACCP *Salmonella* verification data from July 2007–September 2010 and the Young Chicken Baseline *Campylobacter* data from July 2008–September 2009. It also uses the Young Turkey Baseline and PR/HACCP *Salmonella* verification data from July 2007–September 2010 and the Young Turkey Baseline *Campylobacter* data from August 2008–July 2009. There are about 40,900 raw data samples collected on 94 inspection procedures taken from the computerized Performance-Based Inspection System (PBIS).

Although FSIS thinks that the 2011 version of the risk assessment is fully documented, the July 2014 version has benefited from the addition of language that more clearly describes how the model works and articulates more it clearly the underlying assumptions. As noted above, this version also was updated in response to peer review comments. As discussed above, the 2011 version of the risk assessment, the peer review comments on that version, FSIS's response to the peer review comments, and the updated 2014 version of the risk assessment are posted on the FSIS Web site.

Comment: A commenter said that one of the major assumptions in the risk assessment is that if performing more unscheduled offline inspection procedures ''either reduces (or does not change) the occurrence of foodborne pathogens such as *Salmonella* and *Campylobacter* on finished poultry products, then a net public health benefit may result.'' The comment questioned how there could be a ''net public health benefit'' if there is no change to the incidence of pathogens on poultry carcasses. The comment said that FSIS should not predicate a significant restructuring of the poultry slaughter inspection program based on a finding that there will be no change to the incidence of contamination of poultry products. According to the comment, any substantial change to meat or poultry inspection should result in significant improvements to public health.

Response: The Agency agrees that the statement in the risk assessment may not fully articulate how a net public health benefit may result if performing more unscheduled offline inspection procedures reduces (or does not change) the occurrence of foodborne pathogens. To clarify, the risk assessment estimates that if more unscheduled offline inspection procedures reduces the occurrence of a specific foodborne pathogen, such as *Salmonella,* but does not change the occurrence of a different pathogen, such as *Campylobacter,* there will be an overall reduction in pathogens on finished poultry products. This aggregate reduction of pathogens and the subsequent reduction in human illnesses is what was hypothesized to result in a net public health benefit.

The risk assessment characterizes a negative correlation between the frequency of unscheduled offline inspection activities and the prevalence of both *Salmonella* and *Campylobacter* positive samples. Based on these modeling results, FSIS thinks it is reasonable to conclude that redeployment of Agency resources from online inspection activities to targeted unscheduled offline activities is likely to produce an improvement in the food safety system resulting from a lower prevalence of carcasses contaminated with *Salmonella* and *Campylobacter,* which could in turn result in a net reduction in the number of human illnesses.

Comment: Several comments noted that the Agency conceded that ''substantial uncertainty about forecasted changes in illness rates'' results from uncertainty about the change in future inspection activities and the rates of human illnesses attributable to poultry.

Response: The risk assessment analyzed data on specific types of inspection activities and the prevalence of *Salmonella* and *Campylobacter* in young chicken and turkey slaughter establishments. The results suggest that, because inspection personnel assigned to the NPIS will conduct more of the type of inspection activities that were correlated with lower *Salmonella* and *Campylobacter* prevalence, the NPIS will likely result in fewer human illnesses than would be expected if not implemented. In addition to the expected values, the analysis provides the statistical uncertainty of the estimated number of averted illnesses by reporting the upper and lower 80 percent confidence bounds around the estimates to acknowledge that uncertainty always will exist in such models.

Comment: Several consumer advocacy organizations noted that the 2011 version of the risk assessment predicts that additional unscheduled offline procedures could lead to as many as 986 fewer *Campylobacter*-related illnesses per year. The comment noted that the risk assessment states that ''this analysis suggests ambiguous effects of the proposed rule with respect to *Campylobacter* occurrence on chicken carcasses'' and thus does not show a clear public health benefit.

Some comments noted that the Agency recently established a performance standard for *Campylobacter.* The comment said that the Agency does not have enough experience with the *Campylobacter* performance standards to assess industry efforts to reduce *Campylobacter* in poultry to make any reasonable predicted public health benefits. The comments said that if the Agency's proposed changes to poultry slaughter inspection are truly intended to improve public health, the Agency needs a much better understanding of *Campylobacter* rates in poultry establishments and of how the Agency's proposal will impact those rates.

One comment added that the risk assessment suggests that ''the positive *Salmonella* implications of HIMP'' could be applied to *Campylobacter,* but the Agency provides no justification for this statement. The comment said that several studies point to the difficulty of making correlations between controlling for *Salmonella* and controlling for *Campylobacter.*

The comments asserted that FSIS should postpone implementation of the proposed rule until it has collected additional data on *Campylobacter* and is better able to estimate the impacts of the proposed rule on reducing this pathogen.

Response: The Risk Assessment presented the results of two scenarios—one that was based on only increasing unscheduled offline procedures (referred to as the ''discriminate scenario'') and one that did not specify the particular activities to be increased (referred to as the ''indiscriminate scenario''). The former (discriminate scenario), which was based on the type inspection procedures performed more often in the HIMP establishments, suggested larger improvements to public health than the indiscriminate model. FSIS peer-reviewed risk assessment (July 2014), results suggest that the *discriminate scenario* of increased off-line inspection could decrease the number of positive *Salmonella* and *Campylobacter* samples in young chicken and young turkey establishments with high probability. This is the scenario upon which this rule is based.

As noted by the comments, the Agency recently established performance standards for *Campylobacter* for young chicken and turkey slaughter establishments. Because the Agency has not been collecting and analyzing samples for *Campylobacter* as long as it has been collecting and analyzing samples for *Salmonella,* there are fewer

Campylobacter sampling results available for analysis. Thus, although the trends for the *Salmonella* and *Campylobacter* results are the same, the *Campylobacter* results are less robust because of the smaller sample size. The updated risk assessment estimates that there would be a reduction of 3,980 *Salmonella* illnesses attributable to young chicken and turkey establishments combined. This in itself would be a positive public health outcome. Because an increase in unscheduled offline inspection activities is expected to result in fewer *Salmonella* illnesses, FSIS believes that there is no reason to delay implementation of the rule until the Agency collects and analyzes more samples for *Campylobacter.* Additionally, Agency responses to *Campylobacter* sample set failures will continue to follow procedures for Salmonella set failures, i.e. immediate follow-up testing for both organisms and, in most instances, Food Safety Assessments, regardless of whether an establishment adopts the NPIS or not.

Comment: A consumer advocacy organization said that the risk assessment relies heavily on the data collected through the HIMP pilot and the microbiological verification testing programs. The comment asserted that, because these programs are not representative of all poultry establishments, data collected through these programs cannot be generalized to the entire poultry industry. The comment said that the microbiological verification testing programs were not designed to estimate the incidence of foodborne pathogens in meat and poultry products, nor were they designed to evaluate trends over time. The comment said that despite these limitations, the risk assessment has used these data to evaluate the public health impact of reassigning online inspectors to offline activities and has concluded that there is a public health benefit to doing so. The comment suggested that FSIS conduct a pilot study in a representative sample of poultry establishments to ensure that there is a public health benefit before implementing the proposed rule in all poultry establishments.

Response: The assertion that the risk assessment relies on data that are not representative of all poultry establishments is not accurate. The risk assessment uses a volume-weighted model to account for the fact that the microbiological sampling is not proportional to volume. The risk assessment relies on *Salmonella* data collected from 189 young chicken and 25 turkey slaughter establishments and on *Campylobacter* data collected from 181 young chicken and 65 young turkey slaughter establishments from July 2007 to September 2010. There are 20 young chicken establishments and 5 turkey establishments operating under the HIMP inspection system.

The risk assessment does not use the results of microbiological verification testing programs to estimate the prevalence of foodborne pathogens in poultry products or to evaluate trends over time, as suggested by the comment. The risk assessment uses FSIS microbiological verification testing results to analyze correlations between observed positive samples and offline inspection activities in young chicken and turkey slaughter establishments. These correlations are then used as one input to the model that characterizes changes in attributable human illness. The risk assessment showed that the greatest effect on *Salmonella* and *Campylobacter* prevalence and related illness would occur when inspection activities are concentrated on increased unscheduled offline procedures. Thus, FSIS disagrees with the comment's suggestion that the Agency should not implement the proposed rule until it conducts a pilot study in a representative sample of poultry establishments to ensure that there is a public health benefit. The Agency has ample evidence to support its conclusions that there is a solid basis to allow for the NPIS.

Comment: Comments from a consumer advocacy group and a labor union said that the risk assessment is based on the assumption that the Agency's *Salmonella* verification data accurately reflect the performance of the establishments. The comments questioned whether the Agency's *Salmonella* verification results reflect the typical operating conditions in establishments. According to the comments, establishments know when FSIS is about to collect *Salmonella* verification samples because the test kit is mailed to the establishment right before the inspectors are to collect the samples. According to the comments, on days when inspectors collect samples for *Salmonella* testing, it is not unusual for the establishments to increase the concentration of available chlorine in the chiller. The comments asserted that the results of the risk assessment are not reliable because the predictions are not based on typical operating conditions in establishments. As a result, the comments said that FSIS's claims that the proposed rule may reduce the number of *Salmonella* and *Campylobacter* related illnesses are highly speculative and unlikely to be realized.

Response: FSIS disagrees with the comments. The available data from FSIS's microbiological baseline studies and the Agency's *Salmonella* verification results indicate that FSIS's *Salmonella* verification sampling results do reflect typical operating conditions in the establishment.

The Agency compared its most recent baseline data for *Salmonella* prevalence in young chicken and turkey slaughter establishments collected under its National Microbiological Data Collection Programs completed in 2008 and 2009, respectively, with the results of the *Salmonella* samples that it collected and analyzed under its HACCP *Salmonella* verification program for similar time periods. The estimated *Salmonella* prevalence associated with the two sets of data, when volume weighted and adjusted for other establishment characteristics, were not significantly different. FSIS has documented this conclusion in a series of Agency reports [5] and written material associated with the **Federal Register** notice, ''New Performance Standards for *Salmonella* and *Campylobacter* in Young Chickens and Turkey Slaughter Establishments, Response to Comments and Announcement of Implementation Schedule,'' which announced the new *Salmonella* and *Campylobacter* performance standards (76 FR 15282).

In addition, under both HIMP and non-HIMP inspection systems, the protocol is for inspectors to randomly collect scheduled *Salmonella* verification samples and do not inform establishments when they collect the samples. FSIS uses the best available data and has taken steps to enhance data quality going forward. For example, FSIS authorizes its inspectors to request that the Agency schedule additional *Salmonella* verification sampling if they have evidence to demonstrate that an establishment altered its food safety system to coincide with the FSIS *Salmonella* verification sample set.[6] Since FSIS implemented this policy, there have been 10 requests, from which 3 were found to be process changes during *Salmonella* sampling that justified an additional verification set. As of July 21, 2014, there have been no requests since December 2013. Thus,

[5] *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/federal-register/federal-register-notices/notices-2011*; *Salmonella* and *Campylobacter* Notice and comparisons of HACCP and baseline report.

[6] See FSIS Notice 66–12, which reissued the policy in former FSIS Notice 42–11 at: *http://www.fsis.usda.gov/OPPDE/rdad/FSISNotices/66-12.pdf.*

FSIS has no basis to think that establishments are regularly making changes to their processes that would substantially affect the Agency's *Salmonella* verification results or, in turn, affect the conclusions of the risk assessment or the HIMP report.

Comment: A consumer advocacy organization said that the risk assessment's assumptions regarding unscheduled inspection procedures were based on procedures assigned under the PBIS. The comment said that now that FSIS has implemented the Public Health Inspection System (PHIS), the number of pre-operational sanitation procedures that inspectors conduct on a monthly basis was reduced to accommodate other inspection procedures under PHIS. According to the comment, the risk assessment is flawed in that it is not based on the inspection tasks that FSIS inspectors will actually be performing under PHIS.

Response: The risk assessment is based on the data that were available at the time that FSIS conducted the analysis. At that time, the available data on offline inspection procedures reflected the number of such procedures scheduled under PBIS. The analysis of historical data that is presented in the risk assessment showed a relationship between lower *Salmonella* in young chicken and *Campylobacter* in turkey prevalence and the type of inspection activities that will be conducted more frequently under the NPIS. FSIS inspectors will continue to conduct both unscheduled and scheduled offline inspection activities under PHIS. Thus, the Agency thinks that the risk assessment's results are valid under PHIS.

Comment: Two consumer advocacy organizations said that while the risk assessment details the uncertainty about the change in human illness rates when offline inspection activities are intensified, there is no comparable examination of the human illness changes from reducing online Federal inspection activities. One of the comments asserted that the risk assessment also did not fully consider the other changes to the inspection system that the Agency was proposing. This comment specifically noted that the risk assessment did not consider the increase in line speeds that had been proposed under the NPIS. Both comments asserted that the Agency should withdraw the rule until an analysis of all of the modifications and variables provides certainty that the inspection changes will not increase the risk to human health.

Response: FSIS disagrees with the suggestion that the Agency withdraw the rule until it conducts an additional analysis. The modifications noted by the comments were addressed in the HIMP pilot study. FSIS thinks that the performance of establishments under HIMP, as documented in the HIMP report, represents what would be achieved under the NPIS. These results support moving forward with this final rule.

As under HIMP, under the NPIS, establishment employees will be responsible for conducting online sorting activities that are currently conducted by FSIS online inspectors. Based on the results of the HIMP pilot, FSIS thinks that establishment employees can perform these activities as effectively as FSIS inspectors do. To ensure that they do, FSIS inspectors in establishments operating under the NPIS will verify that establishment employees are effectively sorting carcasses on an ongoing basis. As they do under HIMP, VIs under the NPIS will collect samples and conduct verification checks and CIs will perform a visual inspection of each carcass at the end of the line before the chiller. If inspection personnel find food safety-related defects or the presence of persistent, unattended trim and dressing defects or removable animal diseases on carcasses and parts, FSIS will require that the establishment take appropriate action to ensure that establishment employees are effectively sorting carcasses and that the establishment is operating under conditions needed to produce safe, wholesome, and unadulterated product. Therefore, the Agency believes that establishment employees operating under FSIS inspection can effectively perform the sorting activities that they will be responsible for under the NPIS.

FSIS also disagrees with the comment that suggested that the Agency conduct an additional risk assessment to estimate the effects of line speeds on food safety and public health. The focus of the risk assessment is to determine how performing a greater number of sanitation, sampling, and other offline activities in young chicken and turkey slaughter establishments might affect the number of human illnesses from *Salmonella* and *Campylobacter.* Although the regression analysis used in the risk assessment did include a categorical variable representing line speed as a structural (fixed effect) variable in the regression model that predicts prevalence, the results do not reflect measures that establishments typically implement in response to a given line speed in order to maintain process control.[7] The Agency believes that the performance of establishments under HIMP, as documented in the HIMP report, represent what would be achieved under the NPIS at similar line speeds.

Comment: One comment said that the risk assessment concludes that more unscheduled offline procedures are the key to lowering *Salmonella* levels. The comment noted that the risk assessment did not consider whether this would be the case if inspectors also did not perform all of the scheduled food safety verifications, which were the only inspection tasks that inspectors performed more in HIMP establishments than in non-HIMP establishments. According to the comment, this is important because there are no scheduled offline food safety checks in the NPIS. The comment questioned the Agency's ''assum[ption] that offline inspection activities after the voluntary implementation of the new inspection system will parallel offline inspection activities in current HIMP establishments.''

Response: Inspection procedures that will be performed in establishments operating under the NPIS will be determined by protocols currently required under PHIS. Under PHIS, inspectors perform both routine (scheduled) procedures and directed (unscheduled) procedures. Thus, inspectors assigned to establishments operating under the NPIS will perform both scheduled and unscheduled offline procedures, just as they currently do in both HIMP and non-HIMP establishments. These offline procedures include, verifying compliance with HACCP and Sanitation SOP requirements, performing carcass verification checks for septicemia/toxemia and visible fecal contamination, verifying sanitary dressing requirements, and collecting samples. The offline inspection activities conducted under the NPIS are intended to be the same rather than parallel the procedures of the existing inspection systems, yielding the same or better public health outcomes.

D. The New Poultry Inspection System (NPIS)

In the preamble to the proposed rule, the Agency explained that, based on its experience under HIMP, it was proposing to establish the NPIS for young chickens and turkeys (77 FR 4421). The proposed rule would have eliminated SIS, NELS, NTIS, and the HIMP pilot and would have required

[7] See Appendix Tables 6–9 in the July 2014 Risk Assessment.

that all young chicken and turkey slaughter establishments operate either under the NPIS or the Traditional Inspection System, as modified in the proposed rule. The proposed rule would also have limited the number of online inspectors under Traditional Inspection to two for each evisceration line, with an exception for existing establishments that slaughter poultry other than young chickens and turkeys that are currently operating with more than two online inspectors.

As discussed below, after considering the comments, FSIS has decided to modify the proposed rule to leave in place all of the existing poultry inspection systems. FSIS has also decided to allow the 20 young chicken establishments that have been granted SIP waivers to operate under HIMP to continue to operate under a SIP waiver to run at line speeds of up to 175 bpm. However, FSIS will update these SIP waivers to remove aspects of HIMP that are inconsistent with the NPIS, such as the OCP performance standards. If an establishment operating under a SIP waiver described above goes out of business or decides to give up its waiver, FSIS will select another establishment to take its place. Thus, as under the current HIMP protocol, FSIS will continue to provide SIP waivers for up to 20 young chicken establishments to operate at 175 bpm. Under this final rule, the maximum line speed under the NPIS for turkeys will be 55 bpm, as was proposed. Thus, there is no need for the five HIMP turkey establishments to continue to operate under an updated SIP waiver because they will be able to achieve the same results by operating under the NPIS. FSIS has also decided that it will not limit the number of online inspectors under Traditional Inspection to two. Under this final rule, FSIS will continue to staff all establishments that do not choose to operate under the NPIS with the number of online inspectors currently assigned to the establishment.

The preamble also explained that FSIS would allow establishments that slaughter classes of poultry other than young chickens and turkeys to operate under the NPIS under a waiver through the Salmonella Initiative Program (SIP). Under the SIP, meat and poultry slaughter establishments receive waivers of regulatory requirements on condition that they will conduct regular microbial testing and share the resulting data with FSIS.

1. General Comments on the NPIS

Comment: Comments from producers of poultry products and trade associations representing the poultry industry expressed general support for the NPIS. Comments from some FSIS inspection personnel and some private citizens also expressed support for the NPIS. Some comments noted that the existing inspection systems were designed before FSIS implemented HACCP and were developed to identify visual defects that affect the quality of the product. The comments agreed that Agency resources are better spent performing activities that are more effective in ensuring food safety rather than performing functions that establishments can effectively accomplish under FSIS inspection by both VIs and CIs. Another comment said that the NPIS will give establishments the flexibility to investigate and develop new and more efficient technologies. The comment agreed with the Agency's conclusion that the new inspection system will improve the effectiveness of poultry slaughter inspection and overall food safety, remove unnecessary regulatory obstacles to innovation, and make better use of the Agency's resources. Another comment said that the NPIS is the next logical step in protecting public health through modern, science-based food safety technology.

One comment that supported the NPIS proposal stated that it should be considered as part of a comprehensive food safety program that includes the recently implemented PHIS and performance standards for *Salmonella* and *Campylobacter* in broilers and turkeys. The comment said that the proposal should not be considered separate and apart from other regulatory food safety programs.

Response: The Agency agrees with the thrust of these comments and concurs. Certainly the NPIS is part of the initiatives that contribute to the Agency's comprehensive food safety program. As noted by one comment, among these initiatives are the *Salmonella* and *Campylobacter* performance standards, the SIP, PHIS, as well as the NPIS.

Comment: Comments from consumer advocacy organizations, labor unions, FSIS inspectors, public health organizations, animal welfare advocacy organizations, members of academia, human and worker rights advocacy organizations, and some private citizens objected to the NPIS for various reasons. Many of these comments objected to the NPIS because the commenters view the NPIS as a system that ''privatizes'' inspection by replacing USDA online inspectors in part with establishment employees. The petitions submitted in response to the proposed rule express these same views.

Response: The NPIS will not privatize poultry inspection; this system makes Federal inspection of poultry more effective and carcass inspection by FSIS inspectors more efficient.

Under the existing poultry slaughter inspection systems, FSIS inspectors check each carcass for defects and disease and direct establishment employees to take corrective actions. Under the NPIS, a well-trained FSIS CI will conduct a carcass-by-carcass inspection after establishment employees have sorted, trimmed, and conducted any necessary reprocessing. Thus, under the NPIS the CI will be able to conduct a more effective and efficient carcass-by-carcass inspection because carcasses will only be presented for inspection by the CI if they have been sorted by the establishment and are likely to pass inspection.

As discussed earlier in this document, the VIs under the NPIS will conduct offline food safety-related inspection activities and will monitor and evaluate establishment process controls. The VIs will conduct carcass verification checks on carcass samples collected before the CI station to ensure that the establishment is effectively sorting carcasses and that it is producing products that comply with the Agency's zero visible fecal tolerance and other performance standards. VIs will also perform offline activities in addition to carcass verification checks, such as verifying compliance with sanitation SOPs, SPS, and HACCP regulatory requirements, and ensuring that the establishment is meeting all regulatory requirements and is effectively preventing contamination by enteric pathogens and fecal material throughout the entire slaughter and dressing process.

2. Scope of the NPIS

Comment: One comment said that it interprets the proposed rule to limit establishments that slaughter mature fowl to operate under the NPIS only if they participate in the SIP. The comment noted that the only other alternative for establishments that slaughter mature fowl would be to operate under Traditional Inspection. The comment stated that FSIS should expand the scope of the NPIS to include classes of poultry other than young chickens and turkeys without additional qualifications. According to the comment, requiring that establishments that slaughter poultry classes other than young chickens and turkeys operate under a SIP waiver places them at a competitive disadvantage because they must incur costs associated with the

additional testing and data collection required under the SIP.

Response: The NPIS was informed by the Agency's experience under the HIMP pilot, which, for poultry, was limited to young chicken and turkey slaughter establishments. Thus, the Agency would need additional data to support an expansion of the NPIS to classes of poultry other than young chickens and turkeys. As noted by the comment, FSIS would permit establishments that slaughter classes of poultry other than young chickens and turkeys to operate under the NPIS under a waiver through the SIP. At a later time, the Agency would consider the data collected in such poultry slaughter establishments operating under a SIP waiver to determine whether to expand the NPIS to other classes of poultry.

Comment: Comments from two labor unions and a worker rights advocacy organization stated that although the proposed rule allows young chicken and turkey slaughter establishments to choose whether they will operate under the NPIS or under Traditional Inspection, there is no real choice because the Agency proposed to limit the number of online inspectors in establishments operating under Traditional Inspection to two. The comments noted that because most of the establishments that slaughter young chickens and turkeys are large automated operations, it is unlikely that these establishments will choose the traditional method of inspection with slower line speed and two inspectors per line. A comment from an individual questioned why establishments cannot choose to continue to operate under their current inspection systems. The comment stated that FSIS did not require that establishments operate under SIS, NELS, or NTIS when the Agency established those inspection systems. The comment said that allowing establishments to choose to keep their current inspection system gives them a true choice and maintains competition in the marketplace.

A comment from a member of academia said that the proposed rule gives establishments that slaughter young chickens and turkeys the flexibility to decide whether the benefits of switching to the NPIS exceed their estimated costs to operate under such a system. The comment said that many very small establishments are likely to choose to remain under Traditional Inspection because, unlike larger establishments, the benefits of operating under the NPIS may not exceed their costs.

Response: After careful consideration of these comments, FSIS has decided to revise the proposed rule to allow establishments that do not choose to operate under the NPIS to continue to operate under their current inspection system, i.e., SIS, NELS, NTIS, or Traditional Inspection. FSIS has also decided to allow the 20 young chicken establishments that have been granted SIP waivers to operate under HIMP to continue to operate under a SIP waiver to run at line speeds of up to 175 bpm. However, FSIS will update these SIP waivers to remove aspects of HIMP that are inconsistent with the NPIS, such as the OCP performance standards. If an establishment operating under a SIP waiver described above goes out of business or decides to give up its waiver, FSIS will select another establishment to take its place. Thus, as under the current HIMP protocol, FSIS will continue to provide SIP waivers for up to 20 young chicken establishments to operate at 175 bpm. Under this final rule, the maximum line speed under the NPIS for turkeys will be 55 bpm, as was proposed. Thus, there is no need for the five HIMP turkey establishments to continue to operate under an updated SIP waiver.

This final rule will give establishments the flexibility to operate under the system that is best suited to their operations. FSIS has also determined that allowing establishments to continue to operate under their current inspection system instead of converting to the modified Traditional Inspection with two online inspectors will create less disruption to the industry when FSIS begins to implement the NPIS. As noted by the comments, large establishments will likely choose to operate under the NPIS, while very small establishments are likely to choose to operate under the modified Traditional Inspection System. Some establishments may be interested in operating under the NPIS but are not prepared to make the capital investments needed to convert right away. Under this final rule, these establishments will have the option to switch to the NPIS at a later date without having to convert to a modified Traditional Inspection first.

3. Carcass Sorting and Inspection Under the NPIS

a. Carcass Sorting by Establishment Employees

Comment: Several comments from consumer advocacy organizations, FSIS inspectors, labor unions, and private citizens objected to the NPIS's requirement that establishment employees properly sort carcasses before they are presented to the CI for inspection because the comments believe that establishment employees will miss many food safety and OCP defects. Many of the comments referenced the analysis conducted by the consumer advocacy organization that obtained FSIS inspection records from 14 establishments participating in the HIMP pilot presented in an earlier comment. According to the comments, the analysis shows that establishment employees missed food safety and wholesomeness defects at high rates.

Another comment stated that it had secured affidavits from three USDA inspectors who have worked in HIMP establishments who report that because of excessive line speeds and lack of training, company employees routinely miss many food safety and wholesomeness defects. The comments stated that FSIS must more thoroughly evaluate the proposal to allow establishment employees to perform preliminary carcass sorting before it implements the NPIS.

Response: The overall performance of HIMP establishments measured by the findings of offline inspections by VIs was as good as or better than non-HIMP establishments. Results from the VI inspections in HIMP establishments, which are conducted after establishment employees have completed the initial carcass sorting, show that the rates of carcasses with septicemia/toxemia and visible fecal contamination in HIMP establishments were very low, well below the levels set by the HIMP performance standards. These results were discussed in detail above. In addition, as discussed above, OCP defect rates identified on carcasses in HIMP establishments average about half the corresponding OCP HIMP performance standard. Thus, the data from the HIMP pilot show that establishment employees do effectively sort carcasses, dispose of carcasses that must be condemned, and conduct necessary trimming and re-processing activities before the carcasses are presented to the CI for online carcass inspection.

Comment: Several comments from consumer advocacy organizations and private citizens noted that the NPIS does not require that establishment employees performing the sorting function receive training or prove proficiency in performing their duties. The comments noted that the 2001 GAO report on the HIMP pilot program criticized FSIS for not requiring that establishment employees complete training before assuming carcass sorting activities. The comments said that FSIS should accept the GAO recommendation for FSIS to develop a

training and certification program in conjunction with industry.

Response: FSIS is not prescribing specific sorter training or certification. However, the Agency has developed guidance documents to assist establishments in training their sorters. This guidance is available on the FSIS Web site at: *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/compliance-guides-index.* The guidance that the Agency has developed is based on the training that FSIS provides to online inspection personnel that are responsible for sorting carcasses under the existing inspection systems.

FSIS agrees with the comment that training of sorters is important to ensure that they are able to properly perform their duties. Proper training is necessary if sorters are to make accurate decisions on how to address animal disease conditions and trim and dressing defects. Under the NPIS, if sorters do not make these decisions correctly, FSIS inspection personnel will take appropriate action such as stopping the production line, issuing NRs, and directing the establishment to reduce the line speed to ensure that the establishment is able to maintain process control, that establishment sorters are able to successfully perform their duties, and that FSIS CIs are able to conduct a proper inspection.

Comment: A comment from an animal welfare advocacy organization said that by requiring establishment employees to sort out damaged carcasses before FSIS conducts online inspection, employees remove the evidence, i.e., the carcasses themselves, that birds may have died from causes other than slaughter. The comment asserted that this eliminates one means by which FSIS can verify that establishments are employing good commercial practices.

Response: Inspectors in both HIMP and non-HIMP establishments verify that poultry is being slaughtered in accordance with good commercial practices. Compliance with these requirements ensures that poultry are handled humanely prior to FSIS online inspection. On a daily basis, FSIS offline inspectors observe operations in the receiving, hanging, stunning, bleeding, and pre-scalding areas in both HIMP and non-HIMP establishments. Compliance and enforcement actions are taken as warranted and necessary.

b. Online Carcass Inspection

Comment: Several consumer advocacy organizations expressed concern that online inspectors will only look at the back of the bird under the NPIS. The petitions submitted in response to proposed rule also raised this issue. The comments stated that it is necessary to inspect the front and inside of the carcass in order to detect food safety defects. According the comments, under the NPIS, most inspectors will only look at the back of the bird as it quickly moves down the line and are therefore less likely to identify food safety defects in each carcass.

Response: FSIS disagrees with the comments. The CI carcass presentation under the NPIS allows the CIs to focus their inspection on the same condemnable diseases and conditions that online inspectors focus on under the current inspection systems. Therefore, the Agency believes that the CI carcass presentation under the NPIS will allow the CI to conduct an effective online inspection to detect food safety defects.

Under all four existing inspection systems, i.e., SIS, NELS, NTIS, and Traditional Inspection, FSIS online inspectors focus their inspection on identifying and condemning carcasses with septicemic and toxemic animal diseases and other condemnable conditions that cannot be corrected through trimming or reprocessing. Unlike septemia/toxemia, visible fecal material on the surfaces of a carcass is a food safety defect that can be corrected through reprocessing. Therefore, all poultry slaughter establishments have an online or offline reprocessing system for carcasses accidentally contaminated with fecal material.

Under the current inspection systems, FSIS online inspectors do not issue NRs or condemn carcasses if they observe visible fecal contamination on the interior or exterior carcass surfaces. The Agency ensures that the establishment reprocesses the carcasses after online inspection to remove any fecal contamination before the carcasses enter the chiller. Unlike the NPIS, after such reprocessing, none of the current inspection systems provide for an additional online carcass inspection before the reprocessed birds enter the chiller.

FSIS online CIs under the NPIS will continue to focus on identifying and condemning carcasses with septicemic and toxemic animal diseases and other condemnable conditions that cannot be corrected through trimming or reprocessing. In addition, while the Agency will continue to ensure that the establishments operating under the NPIS reprocess carcasses to remove any visible fecal contamination before the carcasses enter the chiller, the FSIS online CI will also inspect all of the carcasses after they have been sorted, washed, trimmed, and reprocessed, before the carcasses enter the chiller. If there is evidence of fecal material on a carcass, or that the carcass is affected with septicemia or toxemia, the CI will stop the line to prevent the affected carcass from entering the chiller. In addition, the CI will issue an NR because the establishment's procedures for preventing visible fecal contamination and for addressing carcasses with septicemia/toxemia were not effective.

Poultry diseases and conditions, except for avian visceral leukosis, are readily identified by observing the carcass alone; pathogens require testing. Inspection of the outside of the carcass for signs of septicemia/toxemia is sufficient to determine whether the carcass and corresponding viscera must be condemned. Carcasses affected with systemic septicemic or toxemic conditions are darker in color due to dehydration or hemorrhaging and may be smaller or have less body fat due to inappetence or increased metabolic rate. Accordingly, inspection of the exterior of the carcass in accordance with the presentation required under the NPIS is sufficient for CIs to effectively identify and condemn carcasses affected with septicemia/toxemia, along with their corresponding viscera. As discussed elsewhere in this document, an FSIS offline inspector will determine the leukosis status of each flock slaughtered. Viscera in leukosis positive flocks will be inspected by FSIS inspectors.

Thus, online inspection under the NPIS is at least as good, if not better, than online inspection under the current inspection systems. CIs under the NPIS will focus their inspection not only on detecting septicemic and toxemic animal diseases, but on detecting visible fecal contamination as well. In addition, as discussed throughout this document, the VI under the NPIS will conduct carcass verification checks on carcass samples collected before the CI station to ensure that the establishment is effectively sorting carcasses and that it is producing products that comply with the Agency's zero visible fecal tolerance and other performance standards. The VI and CI will work with the IIC to ensure that food safety defects or other conditions do not impair the CI's ability to effectively inspect each carcass.

Comment: Several labor unions and consumer advocacy organizations expressed concern that the NPIS does not require that an inspector examine the viscera of each bird or be able to identify each bird's viscera for inspection. These comments asserted

that an examination of the viscera is important in determining whether or not a bird is diseased, contaminated, or otherwise adulterated.

Response: All poultry diseases and conditions, except for avian visceral leukosis, are readily identified by observing the carcass alone. If the CI identifies a carcass with a condemnable condition, the viscera associated with that carcass must also be condemned. When a carcass is condemned, establishments that have maintained the identity of the corresponding viscera must dispose of that viscera as inedible or, where the identity has not been maintained, must dispose of all viscera harvested within the time period related to the condemned carcass. In either case, the CI's visual examination of each carcass also determines the disposition of the corresponding viscera. The CI's online carcass inspection serves as an inspection of the viscera.

Additionally, FSIS inspectors conduct verification checks on all harvested giblets and necks and will apply the RTC standards under the NPIS. These inspection activities ensure that carcasses and parts, including viscera, have been inspected and are determined by FSIS inspectors to be not adulterated. Inspection procedures for avian visceral leukosis are discussed below.

Comment: A few labor unions expressed concern that under the Traditional Inspection System retained by the proposed changes to part 381, there is no guarantee that an inspector will be able to inspect a carcass along with its viscera. The unions stated that under the current inspection regulations, the carcass and its viscera are inspected together, as the viscera is required to be ''uniformly trailing or leading.'' One union was of the view that while proposed 9 CFR 381.76(c) requires that the identity of each bird's viscera be ''maintained in a manner satisfactory to the inspector until such inspection is made,'' this seems to depart from the current requirements in 9 CFR 381.76 because the ''new'' Traditional Inspection System does not ensure that the viscera and the corresponding carcasses can be inspected by a government inspector.

Response: As discussed above, under this final rule, the regulations that prescribe requirements for the existing inspection systems will remain in place, with some modifications. Thus, the regulations for all inspection systems except the NPIS and HIMP will continue to require that carcasses and viscera be inspected together.

c. Inspection for Avian Visceral Leukosis

As discussed in the preamble to the proposed rule, avian visceral leukosis is a rare manifestation of the viral disease leukosis that is not transmissible to humans (77 FR 4421–2). Avian visceral leukosis can only be detected by observing the viscera. Avian leukosis does not present a human health concern, but it may render poultry unwholesome or otherwise unfit for human food.

As explained in the preamble to the proposed rule, it is common commercial practice to vaccinate each chicken flock for viral leukosis. On rare occasions, the vaccine is not effective. If it is not, visceral leukosis is present on a flock basis. Thus, under the NPIS, an offline inspector will observe the viscera of the first 300 birds slaughtered from each young chicken flock to determine whether the disease is present in the flock. FSIS has followed this practice in young chicken HIMP establishments, and it has been effective. In the HIMP report, FSIS explained that ''[i]t is FSIS's experience that when a flock has avian visceral leukosis, 10 to 15 percent of the birds in the flock have detectable leukosis lesions. For a flock in which 10% of the birds have detectable avian leukosis, a 300 bird sample provides a greater than 95% probability of detecting 22 or greater more birds with visible leukosis lesions'' (HIMP Report, p. 26). From these calculations, the Agency concluded that a 300-bird sample is adequate to detect avian leukosis in a flock.

FSIS received several comments on the proposed avian visceral leukosis inspection procedures.

Comment: A trade association and a poultry producer argued that FSIS should eliminate the proposed avian visceral leukosis check. According to the trade association, the check serves no meaningful public health purpose, is not scientifically sound, and is an outdated inspection approach. The trade association stated that when avian leukosis inspection procedures were originally designed, scientists did not know that the condition is caused by Marek's Disease and the Avian Leukosis Complex. According to the trade association, modern treatment and flock handling practices have effectively eliminated these diseases in commercial poultry operations. The comment stated that comprehensive literature reviews of these conditions, including a statement by the National Institutes of Health, have concluded that neither disease presents an apparent risk to public health. Additionally, the trade association stated that as early as 1984, Agency data has shown that avian visceral leukosis was present in only .017 percent of young chickens slaughtered, and that number is lower today.

Response: As noted by the comment, avian visceral leukosis is not transmissible to humans and does not present a human health concern. However, it may render poultry unwholesome or otherwise unfit for human food. Thus, carcasses affected with the condition need to be condemned. Because avian visceral leukosis, if present, will be present throughout an entire flock, inspecting the first 300 birds of each flock is an appropriate and effective procedure for identifying the disease.

Under the NPIS, an establishment must ensure that it can identify viscera and parts corresponding with each carcass. This final rule also requires that establishments operating under the NPIS provide a location along the production line at which an inspector can inspect for avian leukosis ''the first 300 carcasses of each flock together with associated viscera either uniformly trailing or leading, or otherwise identified with the corresponding carcass.''

Comment: One labor union stated that FSIS is going to require that establishments notify the IIC when they intend to slaughter a new flock so that FSIS may inspect the viscera, but ''flock'' is not defined anywhere in the regulations. The union stated that FSIS's clarification of flock, ''In general, a flock constitutes birds raised under similar circumstances on the same premises'' in the preamble to the proposed rule is imprecise and the clarification is not included in the PPIA or Federal regulations. The union asserted that this lack of a definition of ''flock'' makes the process for detecting avian leukosis problematic.

Response: Establishments are able to identify which birds belong to the same flock because birds from the same flock, i.e., birds that have been raised under similar circumstances on the same premises, arrive at slaughter together. Establishments operating under the NPIS will identify when a new flock arrives and are required to notify the IIC when they intend to slaughter a new flock.

d. Verification Inspection

Comment: A consumer advocacy organization and a trade association requested that FSIS clarify the role of the VI under the NPIS. The consumer advocacy organization requested that FSIS explain how the NPIS will enable

inspectors to conduct more food safety checks; whether more VIs will be assigned to each slaughter line; whether VIs will have to cover more than one slaughter line in an establishment; and whether VIs will have more than one establishment to cover on a given shift, similar to processing assignments.

Response: There will be one CI and one VI assigned to each evisceration line per shift in establishments that chose to operate under the NPIS. As stated throughout this document, because the establishment's employees will be responsible for sorting carcasses, disposing of carcasses that must be condemned, and conducting any trimming or reprocessing activities before carcasses are presented to the online CI, the CI will be better able to focus on detecting carcasses with visible defects that impact food safety, such as visible fecal contamination and septicemia/toxemia.

In addition to online inspection performed by CIs, VIs under the NPIS will conduct offline food safety-related inspection activities and will monitor and evaluate establishment process controls. The VIs will conduct carcass verification checks on carcass samples collected before the CI station to ensure that the establishment is effectively sorting carcasses and that it is producing products that comply with the Agency's zero visible fecal tolerance and other performance standards. As in HIMP, VIs under the NPIS will also conduct an array of other inspection activities that are important to ensure food safety, such as performing ante-mortem inspection; collecting samples for pathogen testing; verifying the effectiveness of the establishment's HACCP system; and verifying that the establishment is meeting sanitary dressing requirements. As noted throughout this document, the VI and CI will work with the IIC to ensure that food safety defects or other conditions do not impair the CI's ability to effectively inspect each carcass.

Comment: A consumer advocacy organization argued that the NPIS decreases the protections that are part of the HIMP pilot program. The comment stated that under HIMP, VIs collect and examine 10-bird samples for food safety defects every hour, and examine at least two of the 10-bird samples for wholesomeness defects. Because of the decreased role of online FSIS inspectors, the consumer advocacy organization stated that these 10 bird samples are the only hands-on verification of poultry carcasses under HIMP. This comment expressed concern that the NPIS does not provide for scheduled verification checks, i.e., food safety or wholesomeness checks, and the Agency has been unwilling to commit to any specific number of scheduled checks.

Response: FSIS agrees with the consumer advocacy organization's assertion that the verification checks that VIs conduct for food safety defects under HIMP are necessary to ensure that establishment employees are effectively sorting carcasses and disposing of carcasses that must be condemned before the carcasses are presented to the CI. Effective carcass sorting by establishment employees is essential for the CI to conduct an efficient and effective online carcass-by-carcass inspection. Therefore, under the NPIS, VIs will continue to conduct carcass verification checks for food safety defects at a point in the slaughter process before the CI's online fixed position. VIs will also verify that establishments are effectively addressing OCP defects through review of establishment records documenting that the establishment is producing RTC poultry and through observation of carcasses when conducting verification checks.

Because HIMP was a pilot study, the activities for offline VIs needed to be more controlled and prescriptive to ensure that the data collected from each establishment participating in the study were consistent. Under the NPIS, the carcass verification checks will be more risk-based to reflect the performance of the establishment. Thus, for some establishments, VIs may conduct more carcasses verification checks under the NPIS than they do under HIMP.

Under the NPIS, the Agency will follow the same procedure used under HIMP to schedule VI carcass checks for food safety defects to ensure that VIs collect an appropriate number of verification samples to assess each establishment's performance under the NPIS. The Agency will monitor and analyze the ongoing results of its verification activities to assess the effectiveness of the establishment's carcass sorting and other process control procedures. The Agency will modify carcass verification checks and other verification activities as needed to respond to findings through the same data-driven process that FSIS uses for all in-plant verification.

The inspection results recorded in PHIS provide FSIS with the information it needs to ensure that verification activities are targeted at identified public health risks. Under PHIS, FSIS is able to modify verification activities to respond to specific situations in individual establishments, to findings in a particular type of establishment, or across the entire regulated industry. In-plant inspection personnel use PHIS to initiate additional verification tasks if their inspection findings raise concerns about an establishment's compliance with regulatory requirements. FSIS managers use PHIS to initiate additional verification and sampling tasks in individual establishments in response to certain criteria, such as not meeting the *Salmonella* performance standard. They are also able to adjust the frequencies and priorities of verification tasks on a national level to quickly shift inspectors' focus to verify requirements where findings indicate problems may be occurring.

Comment: One trade association requested that the Agency clarify where in the process a finding of fecal contamination would result in a regulatory noncompliance.

Response: Similar to HIMP, under the NPIS, the VI will issue an NR for visible fecal contamination if the VI detects such contamination when performing carcass verification checks.

In addition, this final rule requires that all poultry slaughter establishments develop, implement, and maintain written procedures to ensure that carcasses with visible fecal contamination do not enter the chiller and to incorporate these procedures into their HACCP systems. It also requires that all poultry slaughter establishments develop, implement, and maintain written procedures to prevent fecal contamination and contamination by enteric pathogens throughout the entire slaughter and dressing process and to incorporate these procedures into their HACCP systems. These requirements are intended to ensure that establishments are taking the necessary steps to prevent contamination throughout the process and not just cleaning up the birds at the end of the process.

Accordingly, if the CI in an establishment operating under the NPIS observes a carcass with visible fecal contamination, in addition to stopping the line to prevent the carcass from entering the chiller, the CI will also issue an NR because the establishment's procedures for preventing visible fecal contamination were not effective. Because establishments are required to prevent visible fecal contamination throughout the entire process, the CI will issue the NR regardless of where the establishment's CCP for visible fecal contamination is located.

In addition, under this final rule, FSIS inspectors under all poultry inspection systems will not just be inspecting at the end of the line to verify that the establishment's procedures for preventing visible fecal contamination

are effective. Inspection personnel will be conducting verification activities throughout the entire process to ensure that the establishment's procedures for preventing contamination by enteric pathogens and visible fecal material are effective.

e. RTC Poultry Definition Under the NPIS

As noted in the preamble to the proposed rule, removing the SIS, NELS, and NTIS would have included removing the FPS prescribed under these inspection systems (77 FR 4422). As discussed above, FSIS has modified the proposed rule to leave all existing inspection systems in place. Therefore, under this final rule, establishments that continue to operate under SIS, NELS, and NTIS will continue to be subject to the FPS.

However, as was proposed, under the NPIS, the FPS will be replaced with a requirement that establishments document that the products resulting from their slaughter operations meet the definition of ready-to-cook (RTC) poultry. As explained in the preamble to the proposed rule, establishments operating under the NPIS would (like HIMP establishments) have the flexibility to design and implement measures to address OCP defects that are suited to their operations (77 FR 4423). FSIS received several comments from trade associations, consumer advocacy organizations, and industry members on the RTC poultry standard. Comments from members of the poultry industry and a trade association expressed support for the RTC poultry standard and agreed that establishments should have the flexibility to design and implement measures to address OCP defects that will be most effective in their operations. Other comments raised various issues that are discussed below.

Comment: Comments from consumer advocacy organizations suggested that the RTC standard is not stringent enough and that the lack of enforceable OCP goals will make it difficult for FSIS to enforce the RTC standard. The comments said that in contrast to the HIMP inspection system, the Agency is not committing to any specific level of scheduled VI verifications for OCP defects under the NPIS. One comment said that the Agency should have a robust sampling scheme to deal with OCP defects. Another comment maintained that without specific standards for ensuring that OCP defects are promptly identified and addressed, it will be difficult to compare establishments across the industry and trace the causes of systematic defects.

Response: FSIS disagrees with the comments that said that the RTC standards are not stringent. The Agency believes that it can effectively address OCP defects by requiring that establishments operating under the NPIS maintain records to document that the products resulting from their slaughter operations meet the RTC definition. However, to address concerns expressed by the consumer advocacy organizations, the Agency is making clear in this final rule that these records are subject to review and evaluation by FSIS inspectors.

As noted above, the HIMP Report found that for the two-year period from CY 2009 through 2010, HIMP establishments maintained OCP defect levels that average about half the OCP performance standards derived from the performance of non-HIMP establishments. Because the data show that establishments operating under the HIMP inspection system performed well in controlling OCP defects, FSIS tentatively concluded that it was not necessary to adopt prescriptive OCP requirements under the NPIS (77 FR 4423). Instead the Agency proposed to require that establishments operating under the NPIS document that the products resulting from their slaughter operations meet the definition of RTC poultry. Although the NPIS will give establishments the flexibility to design and implement effective measures for addressing OCP defects, establishments will still be responsible for ensuring that the poultry products resulting from their slaughter operations meet the RTC definition.

As was proposed, under this final rule, FSIS will verify that an establishment operating under the NPIS is producing RTC poultry by reviewing the establishment's records and observing carcasses as part of their inspection activities. This approach is consistent with the Agency's view that the verification activities performed by FSIS inspectors should be predominantly focused on activities that are more important in ensuring food safety, but that it is also necessary to verify compliance with requirements that provide non-food safety protections to consumers.[8]

For their record reviews, FSIS inspectors will verify that establishments operating under the NPIS have written criteria for determining whether carcasses meet the RTC definition and that they are documenting that the poultry products resulting from their slaughter operations meet these criteria before packaging or further processing that will conceal the defect. FSIS expects that the establishment will maintain records that, at a minimum, include the following information:

- The records system that the establishment uses to document that it is producing RTC poultry. For example, an establishment may use statistical process control charts, HACCP records, or other documentation.
- The points in the operation where the establishment monitors carcasses to determine whether they meet the RTC definition and records the results of its monitoring activities. For example, an establishment may conduct monitoring and recording the results at a pre-chill and a post-chill station.
- The frequency with which the establishment conducts monitoring activities. The records should specify how often the establishment monitors carcasses per line per shift. For example, an establishment may conduct and document its monitoring activities at least every two hours per line per shift at the pre-chill location and at least twice per shift per line for post-chill location.
- The definitions of the OCP non-conformances or processing and trim defects that for which the establishment is monitoring. For example, the establishment may be monitoring carcasses for processing and trim non-conformances as specified in the current FPS regulations, for trim and processing OCP defects specified under the HIMP OCP performance standards, or defects as defined in a published study or a study that the establishment conducted itself. If the establishment references a study, it should give a brief description of the study and have the supporting information on file.
- The criteria that the establishment uses to determine that the products resulting from its slaughter operation meet the RTC definition. For example, an establishment may follow the subgroup limits for non-conformances and defects in the current FPS regulations, the trim and processing defect levels for the HIMP OCP performance standards, or it may determine the upper limits for non-conformances using a statistical process control program.
- The corrective actions that the establishment will take if the levels of defects and non-conformances exceed its evaluation criteria for RTC poultry.

As noted in the preamble to the proposed rule, poultry carcasses that

[8] See FSIS Directive 7000.1, ''Verification of Non-Food Safety Consumer Protection Regulatory Requirements,'' December 11, 2006 (*http://www.fsis.usda.gov/wps/wcm/connect/aa15d83f-cd09-4553-a705-2e3a0eb94e5d/7000.1.pdf?MOD=AJPERES*).

meet the FPS under SIS and NELS, or that meet the OCP performance standards under HIMP, are ''suitable for cooking without the need for further processing,'' and as such, meet the RTC poultry definition. Therefore, establishments operating under the NPIS that adopt the FPS or the OCP HIMP performance standards as their criteria for determining whether they are producing RTC poultry will meet the regulatory requirements if: (1) They can document that the products resulting from their slaughter operations consistently meet these standards and (2) FSIS inspectors do not observe persistent, unattended defects on the products resulting from the establishment's slaughter operations. Establishments that adopt criteria other than the FPS or the HIMP OCP standards must have documentation to demonstrate how they will use these criteria to demonstrate that the products resulting from their slaughter operations meet the RTC poultry definition.

In addition to record reviews, FSIS inspectors will verify that establishments operating under the NPIS are producing RTC poultry by visually observing carcasses as part of their inspection activities. The presence of persistent, unattended trim and dressing defects on carcasses at the end of the process would indicate that the establishment is not producing RTC poultry. It may also indicate a general lack of control in an establishment's overall slaughter and dressing process. Thus, if inspectors observe persistent, unattended defects, FSIS will require that the establishment take appropriate actions to ensure that its process is under control and that it is operating under conditions necessary to produce safe, wholesome, and unadulterated RTC products. If inspection personnel through their record review or direct observation of carcasses find evidence that an establishment is producing poultry that does not meets the RTC definition, the IIC will be authorized to take appropriate action to ensure that the establishment remedies the defects, including requiring that the establishment slow the line speed.

Comment: Some consumer advocacy organizations said that if FSIS does not establish specific OCP standards for the NPIS, consumers will have no assurances that poultry establishments operating under the NPIS are producing poultry in a uniform manner and adequately removing carcasses defects. One comment noted that there is an increasing market for chicken parts and processed chicken, which enables companies to profit from unwholesome product because consumers have no way to determine that the product has defects. As an example, the comment noted that consumers cannot recognize unwholesome tissue in breaded, battered, or marinated products.

Response: Under the NPIS, establishments will be required to document that the products resulting from their slaughter operations meet the RTC poultry definition. Thus, because the RTC standard applies to carcasses and parts at the end of the slaughter process, establishments will be required to ensure and document that all carcasses and parts meet the RTC definition before the establishment conducts any additional processing to produce battered, marinated, or other processed products.

Comment: Some consumer advocacy organizations noted that the 2001 GAO report on HIMP recommended that FSIS require establishments to implement statistical process controls (SPC), and that FSIS should monitor the efficacy of these systems. The comments noted that while FSIS encourages establishments to implement SPC, the proposed rule does not require it.

Response: FSIS agrees that SPC systems are effective tools for establishments to use to manage and control their production. Some HIMP establishments currently use SPC systems to monitor their compliance with the HIMP OCP performance standards. The Agency believes that most establishments operating under the NPIS will choose to use SPC systems to allow them to document that their poultry products meet the RTC definition. However, instead of mandating the use of SPC, the Agency has decided to allow establishments operating under the NPIS to implement the process controls that they have determined will best produce RTC poultry that is wholesome and not adulterated. The Agency believes that it will be more effective and more consistent with HACCP requirements to provide each establishment operating under the NPIS the flexibility to determine how best to meet the RTC requirement within the context of its production environment while holding the establishment to the *Salmonella* and *Campylobacter* performance standards.

Comment: Comments from poultry producers and trade associations recommended that the Agency allow establishments to apply the RTC standard at any appropriate location at or before the point of packaging or clarify that the Agency intended this flexibility if that is the case. One comment from a trade association said that because an establishment may apply processes targeting RTC criteria and other quality issues at various locations after the chiller, it is not appropriate for the CI to inspect for RTC criteria before the chiller. The comment noted that the RTC standard addresses quality not food safety issues, so there is no food safety concern associated with birds that may not yet meet the RTC standard entering the chiller. The comment said that a bird with bruising, for example, will not ''contaminate'' other birds in the chiller. The comment said that the CI should not be distracted from inspecting for food safety issues with the additional task of checking for RTC criteria.

Response: This final rule maintains the current requirements that all poultry slaughter establishments prepare all eviscerated carcasses as RTC poultry.[9] This final rule also requires that establishments operating under the NPIS maintain records to document that the products resulting from their slaughter operations meet the definition of RTC poultry. Thus, like the FPS, the RTC definition applies to the products at the end of the slaughter process. However, if the CI or the VI observe the presence of persistent unattended defects before the chiller when performing online inspection or conducting offline verification checks, FSIS will address the effectiveness of an establishment's sorting process and its ability to maintain process control. The Agency will require that the establishment operating under the NPIS take appropriate actions to ensure that it is producing safe, wholesome products that meet the definition of RTC poultry.

Comment: One consumer advocacy organization agreed that requiring that establishments operating under the NPIS maintain documentation to demonstrate that they are meeting the RTC standard is beneficial but stated that it did not have enough information on the difference between the FPS and the RTC standard to make a specific comment. Another comment requested that FSIS retain the existing FPS as a safe-harbor for establishments that choose to continue assessing compliance with the RTC standard prior to chilling.

Response: RTC poultry is any slaughtered poultry free from protruding pinfeathers and vestigial feathers (hair or down) from which the head, feed crop, oil gland, trachea, esophagus, entrails, and lungs have been removed, and from which the mature reproductive organs and kidneys may have been removed, and with or without

[9] See 9 CFR 381.76(a) under the current regulation and this final rule.

giblets, and which is suitable for cooking without need for further processing (9 CFR 381.1). All poultry slaughter establishments are required to prepare all eviscerated carcasses as RTC poultry (9 CFR 381.76(a)). Carcasses affected with removable animal diseases or that contain numerous trim and dressing defects are not ''suitable for cooking without the need for further processing,'' and do not meet the RTC poultry definition.

As discussed above, establishments operating under the NPIS will have the flexibility to design and implement measures to address OCP defects that are best suited to their operations, and certainly establishments may adopt procedures to address OCP defects based on the existing FPS in order to meet the RTC poultry standard.

4. Facilities Requirements and Staffing for the NPIS

a. Facilities Requirements

Comment: One industry member suggested that establishments operating under that NPIS be permitted to place the carcass inspection station at any location before the chiller. The comment stated that establishments have many reasons for placing carcass inspection stations at locations other than immediately before the chiller. The industry member believed that a facility-specific approach would be more successful in ensuring food safety.

An industry member expressed concern that because of space or line-layout constraints, establishments may not be able to place a carcass inspection station meeting FSIS requirements immediately before the chiller. According to this industry member, some equipment cannot be moved, or if it can be moved, it will result in higher costs and will be less effective elsewhere on the line.

Response: The CI inspection station needs to be located at the end of the processing line immediately before the chiller to allow the CI to ensure that carcasses affected with food safety defects do not enter the chiller and to ensure that the establishment's procedures for preventing visible fecal contamination are effective. Thus, FSIS disagrees and concludes that a prescribed location for the CI station best ensures effective inspection and food safety.

Comment: Two comments from inspectors recommended that FSIS modify the proposed rule to require that the online CI's platform be height-adjustable. The comments stated that, while handling of every carcass is not required under the NPIS, online inspectors will still be required to visually inspect each carcass and that the ideal platform height for one inspector may not be ideal for another significantly taller or shorter inspector. One comment believed that an adjustable platform will benefit inspectors that wear corrective lenses.

Response: FSIS has considered the comments and agrees that the CI inspection platform should be height-adjustable to ensure that CIs are able to conduct an effective visual inspection of each carcass. The Agency is amending the proposed facilities requirements to require that the CI inspection platform under the NPIS be height-adjustable. Most establishments that choose to operate under the NPIS will likely move their present adjustable inspector platform to the new CI location when they convert to the NPIS. Other establishments may consolidate lines and therefore will have extra adjustable inspector platforms when they convert to the NPIS.

Comment: One trade association stated, to be consistent with HACCP, FSIS should remove the requirement in proposed 9 CFR 381.36(c)(4) for a ''trough or other similar drainage facility'' extending beneath the conveyor at all places where processing occurs. According to the trade association, drainage issues are covered by the general requirement for establishments' to maintain sanitary conditions.

Response: FSIS believes that requiring that establishments provide a trough or other drainage and collection facility beneath the conveyor at all places is necessary to maintain sanitary conditions in the establishment. The existing regulations that prescribe facilities requirements for the SIS, NELS and NTIS provide for a trough or other drainage facility under the conveyor.

b. Staffing

Comment: A consumer advocacy organization expressed concern that there will be fewer FSIS inspectors in establishments operating under the NPIS than there are in establishments operating under the HIMP pilot because, according to the comment, FSIS has refused to commit to maintaining similar, specific levels of food safety activities under the NPIS. The comment asserted that the Agency has already allowed staffing levels to decrease in some HIMP establishments.

Another consumer advocacy organization stated that the proposed rule should include language regarding the number of full-time VIs and CIs needed in establishments operating under the NPIS. The comment said that FSIS should use production volume, along with other risk factors to determine the number of inspectors needed at each facility, and that the number of inspectors assigned to a facility be reviewed routinely based on the establishment's performance.

Response: The staffing for each evisceration line under the NPIS will remain the same as the staffing for each line under HIMP. As in HIMP, each establishment operating under the NPIS will have one VI and one CI per line per shift, as well as an IIC. While the verification activities of the VI under the NPIS may not necessarily be identical to those under HIMP, a VI will continue to be assigned to each line so there will be no net reduction in the level of verification inspection. FSIS District Managers and staff conduct periodic reviews of in-plant staffing requirements to ensure appropriate coverage of frontline inspection activities. This is already a standard practice and will not change under the NPIS.

5. Line Speeds Under the NPIS

Based on FSIS's experience under HIMP, the Agency proposed that the maximum line speeds for young chicken establishments operating under the NPIS be 175 bpm and that maximum line speeds for turkey slaughter establishments be 55 bpm (77 FR 4423). However, the Agency's experience from the HIMP pilot has shown that HIMP establishments operate with an average line speed of 131 bpm, and that, although they are authorized to do so, most of the young chicken HIMP establishments do not operate line speeds at 175 bpm. As noted above, the maximum line speed permitted under the current poultry inspection systems is 140 bpm under the SIS for young chickens, and there are many young chicken establishments that do not operate at the maximum line speeds authorized under the current inspection systems. Establishments determine their line speeds based on their equipment and facilities, bird size and flock conditions, and their ability to maintain process control when operating at a given line speed.

Regardless of line speed, HIMP and NPIS do not require that establishments configure their evisceration lines to accommodate more than one online carcass inspector. Establishments operating under the NPIS will have greater control over their lines and greater flexibility over their production process. For example, consistent with HIMP, establishments operating under the NPIS will have the flexibility to reconfigure and consolidate lines if they determine that they need more space to

conduct other activities in their facilities. In addition, because only one online inspector is required at the end of the line, establishments operating under the NPIS will not need to adjust their production based on the availability of FSIS inspection personnel to be stationed online. Establishment employees will staff the lines to perform the online sorting activities. These establishments will also have greater flexibility to vary their line speeds within the limits established by this rule or increase production to respond to customer demands.

In addition to having more control over their production process, establishments operating under the NPIS will also have more opportunities for innovation and greater flexibility to develop and implement new technologies. Currently, if an establishment operating under the existing inspection systems wants to use new technologies for evisceration or for sorting, the establishment must work directly with the Agency to accommodate FSIS's online slaughter inspection methodologies. Doing so takes time and can become an obstacle to innovation. Under the NPIS, establishments will have direct control of the sorting process within their facilities and therefore will have the flexibility to implement and assess the technologies they think are beneficial to their operations and food safety.

As will be mentioned in the section on ''*Implementation of the NPIS,*'' some comments from consumer advocacy organizations suggested that instead of allowing establishments to adopt all of the changes in the proposed NPIS at once, FSIS should implement the NPIS in phases to ensure that establishments maintain process control as each change is adopted. However, because establishments operating under the NPIS will have greater flexibility to adopt new technologies, it would be difficult to develop an implementation strategy to assess each change that establishments make to convert to the NPIS that could be applied consistently across the industry.

After considering the comments, FSIS agrees that it is important to assess establishments' ability to maintain process control as they implement changes to operate under the NPIS. Data from the HIMP pilot demonstrate that establishments operating under HIMP are able to maintain process control at line speeds of up to 175 bpm. However, as noted above, although they are authorized to do so, most HIMP establishments do not operate at 175 bpm. The average line speed under HIMP is 131 bpm. It is also the case that non-HIMP establishments have been operating successfully at line speeds of 140 bpm or less.

Therefore, under this final rule, the maximum line speed for young chickens will be 140 bpm for establishments operating under the NPIS instead of 175 bpm, as was proposed. Limiting the maximum line speed for young chickens under the NPIS to 140 bpm also addresses the concern raised in some of the industry comments that establishments permitted to implement the NPIS first during a staggered implementation will be able to increase their line speeds while other establishments will be economically harmed as they wait for their implementation date.

After the NPIS has been fully implemented on a wide scale, and the Agency has gained at least a year of experience under the new system, FSIS intends to assess the impact of changes adopted by establishments operating under the NPIS by evaluating the results of the Agency's *Salmonella* and *Campylobacter* verification sampling, reviewing documentation on establishments' OCP performance, and other relevant factors. FSIS will consider these results in assessing whether establishments operating under the NPIS have implemented measures that are effective in maintaining process control.

The maximum line speed for turkey establishments will remain at 55 bpm, as was proposed, because this is similar to the current maximum line speed of 51 bpm authorized under the NTIS. The comments on line speeds under the NPIS were also directed at the proposed 175 bpm line speeds for young chickens.

FSIS has decided to allow the 20 young chicken establishments that have been granted a SIP waiver to operate under HIMP to continue to operate line speeds at a maximum of 175 bpm. As discussed above, FSIS will update these SIP waivers to remove aspects of HIMP that are inconsistent with the NPIS, such as the OCP performance standards. Data from the HIMP pilot demonstrate that HIMP establishments operating at the line speeds authorized under HIMP were capable of consistently producing safe, wholesome, and unadulterated product, and that they consistently met pathogen reduction and other performance standards. Additionally, once the NPIS is fully implemented at most establishments, data from these establishments can be used to compare against data from the young chicken establishments operating under the updated SIP waivers.

The comments on the NPIS maximum line speeds that would have been permitted under the proposed rule raised a number of issues. The issue that FSIS received the most comments on was the potential effects that increased line speeds may have on the health and safety of workers in poultry slaughter establishments. Because the issues raised by these comments do not involve the technical aspects of the NPIS, FSIS will address them in a separate section of this document.

a. Line Speed and Process Control

Comment: Comments from members of the poultry industry and trade associations representing members of the poultry industry supported faster line speeds under the NPIS. One comment stated that the industry has made technological advancements and has produced scientific data to demonstrate that establishments can operate at faster line speeds and still maintain food safety. According to the comment, since HIMP's inception, establishments operating under HIMP have demonstrated that safe product could be produced at faster line speeds, as evidenced by pathogen testing data for these establishments.

Some trade associations went further and suggested that the Agency remove the maximum line speed limits and allow establishments to determine their line speeds based on their ability to maintain process control while ensuring inspection of each carcass. The comments said that this would provide options for future changes as both Agency and industry technology evolve and food safety challenges change. According to one comment, limits on maximum line speeds could limit an establishment's future investment decisions and affect hiring practices.

Response: As discussed above, under this final rule the maximum line speed for young chickens will be 140 bpm instead of 175 bpm, as was proposed. FSIS has determined that maintaining a maximum line speed of 140 bpm under the NPIS will allow the Agency to assess the impact of the various changes and new technologies adopted by establishments operating under the NPIS. As noted above, establishments operating under the HIMP pilot may continue to operate under the line speeds authorized under HIMP.

b. Line Speeds and Online Carcass Inspection

Comment: Several labor unions, consumer advocacy organizations, and members of academia stated the maximum allowable line speeds that had been proposed under the NPIS

would be too fast to allow the CI to conduct an adequate online inspection. The petitions submitted in response to the proposed rule also raised this issue.

Comments from a labor union, members of academia, and a private citizen stated that while the most significant food safety concern is microbiological contamination that is not visible to the naked eye, the visual inspection of birds for signs of disease, remaining feathers, and fecal matter remains critical to ensure that product is safe and wholesome. The comments stated that the faster line speeds that would have been permitted under the proposed NPIS would make it difficult for the CI to perform this task.

Response: FSIS disagrees with the comments. Although the maximum line speeds allowed under the NPIS will be 140 bpm for young chickens, the Agency's experience under HIMP shows that CIs in HIMP establishments are able to conduct an effective online inspection of each carcass when operating under the line speeds authorized under HIMP, i.e., up to 175 bpm for young chickens and 55 bpm for turkeys.

Since 2007, HIMP young chicken establishments have been authorized to operate at line speeds of up to 175 bpm depending on their ability to demonstrate consistent process control. Experience during the HIMP pilot has shown that HIMP establishments operate with an average line speed of 131 bpm, and, although they are authorized to do so, most of the young chicken HIMP establishments do not operate line speeds at 175 bpm. As stated throughout this document, establishments determine their line speeds based on their equipment and facilities, bird size and flock conditions, and their ability to maintain process control when operating at a given line speed. In addition, similar to HIMP, line speeds under the NPIS will depend on the number of employees that the establishments hire and train to perform sorting activities. Although the maximum line speed for young chickens under the NPIS will be 140 bpm instead of 175, as was proposed, FSIS believes that establishments choosing to operate under the NPIS will determine their line speeds based on the same factors that establishments considered when setting line speeds under HIMP for the past 15 years.

Furthermore, as noted throughout this document, under the NPIS, the VI and the CI will work with the IIC to ensure that the food safety defects or other conditions do not impair the CI's ability to conduct an inspection of each carcass. The VI and CI will notify the IIC whenever circumstances indicate a loss of process control, e.g., if the VI observes the presence of persistent unattended defects or has evidence to indicate that the establishment is having difficulty maintaining sanitary conditions, or if the CI finds multiple carcasses with defects. The IIC will take appropriate remedial actions and will be authorized to and may require that the establishment slow the line speed. Under all of the poultry inspection systems, the IIC is authorized to direct establishments to operate at a reduced line speed when in his or her judgment the online inspector cannot perform an adequate carcass-by-carcass inspection because of the health conditions of a particular flock, or because of factors that may indicate a loss of process control.[10]

Comment: A comment from members of academia said that between routine cleanings of equipment, pathogens introduced by infected and colonized birds can spread throughout a processing facility, contaminating surfaces, equipment and workers' personal protective equipment. The comment noted that studies have shown that *Salmonella* species, along with other human pathogens, may survive the various process controls and decontamination methods used in U.S. processing facilities. The comment stated that because of the faster line speeds that FSIS had proposed for the NPIS, more carcasses would be processed in each facility per shift. According to the comment, this may increase the likelihood that human pathogens will be introduced into the processing environment and that a greater number of carcasses will become cross-contaminated following the introduction of an infected and colonized bird. The comment did not submit studies or other evidence to support this view.

Response: As explained above, the maximum line speed for the NPIS established in this final rule will be 140 bpm, which is also the maximum line speeds permitted under the current SIS inspection system. Thus, the comment that faster line speeds under the NPIS may contribute to the introduction and spread of pathogens in the processing environment is no longer applicable to this final rule.

[10] See FSIS Notice 64–13, ''Inspection Responsibilities and Authorities for Reducing Slaughter or Evisceration Line Speed'' at: *http://www.fsis.usda.gov/wps/wcm/connect/8612aba6-8f99-47c0-b024-1e33b3627a84/64-13.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=8612aba6-8f99-47c0-b024-1e33b3627a84.*

Regardless of line speed, as discussed in more detail under the section of this document on ''*Changes that Affect All Establishments that Slaughter Poultry Other than Ratites,''* in addition to proposing the NPIS for young chickens and turkeys, FSIS also proposed to require that all poultry slaughter establishments develop, implement, and maintain, as part of their HACCP systems, written procedures to prevent contamination of carcasses and parts by enteric pathogens and fecal material throughout the entire slaughter and dressing process. At a minimum, these procedures must include sampling and analysis for microbial organisms pre- and post-chill to monitor process control for enteric pathogens. FSIS also proposed to require that establishments maintain daily records sufficient to document the implementation and monitoring of their process control procedures.

The records that will be required under this rule, including the records of the establishment's testing results, will provide establishments and FSIS with ongoing information on the effectiveness of the establishment's process controls. These records will also enable establishments to identify situations associated with an increase in microbial levels so that they can take the necessary corrective actions to prevent further potential contamination. Additionally, the new testing requirements will ensure that establishments are able to provide comprehensive, objective evidence to demonstrate that they are effectively preventing carcasses from becoming contaminated with pathogens before and after they enter the chiller.

E. Implementation of the NPIS

1. Background

In the **Federal Register** document that extended the comment period for the proposed rule, the Agency provided additional information on proposed implementation of the NPIS to solicit more focused comments on the issue (77 FR 24876). In that document, FSIS explained that it proposed to provide a time period in which all young chicken and turkey slaughter establishments would have an opportunity to contact the Agency to indicate whether they were interested in operating under the NPIS. The Agency explained that those establishments that choose to operate under the NPIS would inform the Agency when they would wish to begin implementing the NPIS in their establishment. When it issued the document, FSIS had tentatively decided that establishments would have six

months to decide whether they would operate under the NPIS and up to three years to switch to the new system.

FSIS received comments on its proposed implementation plan from members of the poultry slaughter industry, trade associations representing the industry, and consumer advocacy organizations. The Agency considered these comments in developing the implementation strategy discussed below.

2. Implementation Strategy

Under FSIS's final implementation strategy for the NPIS, all young chicken and turkey slaughter establishments will initially have six months from the date of publication of this final rule to notify their District Office in writing if they intend to operate under the NPIS. If an establishment does not give its District Office written notification of its intent before the end of the initial 6-month period, the establishment will be deemed to have selected to continue to operate under its current inspection system for purposes of the initial implementation. FSIS encourages establishments to notify their District Office as soon as possible after publication of this final rule of whether they intend transition to the NPIS during the initial implementation period and, if so, when they will be ready to transition to the NPIS. Implementation will not take place at all eligible establishments at the same time. It will be phased in over time to ensure proper FSIS inspection force readiness to successfully implement the NPIS.

As soon as this final rule publishes in the **Federal Register**, and establishments have started to notify FSIS of their intent regarding the NPIS, FSIS will begin selecting establishments to switch to the NPIS. FSIS is using a computerized ranking system to determine the schedule of establishments for NPIS implementation. This ranking system is based on a number of factors, such as FSIS staffing needs, past performance of the establishment, and the location of the establishment in relation to other FSIS-regulated establishments. Scores for each establishment will be tabulated, and the establishments will be ordered from highest score to lowest. The highest scoring establishments will be placed first in the transition schedule. Many establishments will likely receive the same score so a random number will be added to their scores to separate these establishments and order them. A description of the ranking algorithm and the rational for the ranking process is available on the FSIS Web page at: *http://www.fsis.usda.gov/wps/portal/fsis/home.*

Once the ordered list of establishments is created, it will be divided into blocks based on the expected number of establishments that can be transitioned each month (expected to be approximately 12). A computer program then examines the list by looking at the corporate ownership (Dunn and Bradstreet corporate parent) of each establishment. If a disproportionate number of one corporation's establishments appears in the transition schedule for any month, another random number will be added to the establishments' scores to separate them.

Because switching to the NPIS is voluntary, the implementation schedule will also need to be adjusted based on establishment readiness. Establishments that want to transition to the NPIS must notify FSIS and provide a date at which they can be ready to transition. Some establishments that are placed near the beginning of the transition schedule based on the computerized ranking system may need to be moved to a later month in the schedule because they are not ready. In addition, FSIS is aware that several large parent corporations are establishing roving teams to prepare their establishments for the transition. The work of these teams may also cause some establishments not to be ready to transition at the earliest opportunity and require rescheduling them into later months.

FSIS will be implementing the NPIS by clusters of establishments in close geographic proximity to one another. Once the NPIS is fully implemented at all of the establishments in a cluster, FSIS will then begin implementing the NPIS in the next selected cluster. Young chicken and turkey slaughter establishments that decide that they would like to convert to NPIS after the initial notification date may notify FSIS of their intent at any time after that date. The Agency will implement the NPIS in the additional establishments that intend to convert to the NPIS on a schedule consistent with Agency resources and readiness. The Agency intends to implement the NPIS in all young chicken and turkey establishment that choose to operate under the NPIS, regardless of when the establishment notifies FSIS of its intent to transition to the NPIS. However, the initial implementation wave will only include those establishments that submitted their notification within the initial notification period.

3. Comments on Proposed Implementation Plan

Comment: A few trade associations and a poultry producer stated that the implementation process needs to be structured in a way that is fair and ensures that FSIS is not allowing one company a competitive advantage over another. One poultry producer was concerned that the establishments permitted to implement the NPIS first will be able to increase their line speeds, efficiency, and slaughter capacity, while other establishments will be economically harmed as they wait for their implementation date. Industry members and trade associations did not agree on what they believed to be the best implementation strategy.

Response: The system that FSIS will be using to determine the schedule of establishments for implementation of the NPIS does take into consideration corporate ownership of the establishments.

As discussed above, FSIS is using a computerized ranking scoring system based on various factors, such as FSIS staffing needs, establishment performance, and establishment location, to generate an ordered list of establishments for NPIS implementation. After the Agency establishes the initial establishment list, the list will be divided into blocks based on the expected number of establishments that can be transitioned each month. A computer program then examines the list by looking at the corporate ownership of each establishment. If a disproportionate number of one corporation's establishments appear in the transition schedule for any month, another random number will be added to the establishments' scores to separate them. FSIS believes that this process will provide for a fair and objective NPIS implementation schedule.

With respect to the comment that expressed concern that the establishments permitted to implement the NPIS first will be able to increase their line speeds while other establishments wait for their implementation date, as discussed above, the maximum line speed for young chickens under the NPIS will be 140 bpm. Thus, although establishments that convert to the NPIS will have greater control over their line and production process, the maximum line speeds for all young chicken establishments will be 140 bpm regardless of when they convert to the NPIS.

Comment: A State Department of Agriculture and a trade association supported the idea of staggered implementation. One trade association stated that establishments should be given a greater amount of time to determine whether they want to convert to a new inspection system or operate under Traditional Inspection, as was proposed. Another trade association expressed concern that a turkey establishment may not know by the end of the 6-month period, as proposed by FSIS, if it will want to convert to the NPIS because of the long grow-out cycle for turkeys compared to chickens (18–22 weeks for toms, broilers can be as short as 5 weeks). This trade association also stated that there needs to be a process for those establishments that want to adopt the NPIS at a date beyond the proposed 3-year implementation period.

Response: FSIS agrees that staggered implementation is the best approach. The 6-month time period also works well for Agency planning and staffing needs. The Agency has concluded that an initial 6-month notification period is a reasonable amount of time. Therefore, all young chicken and turkey slaughter establishments will have 6 months to determine whether they want to convert to the NPIS during the initial transition period or continue to operate under their current inspection system. Additionally, there will be a process for those establishments that want to adopt the NPIS at a date beyond the initial implementation period. Those establishments may notify FSIS of their intent to operate under the NPIS at any time after the initial 6-month notification period. FSIS will implement the NPIS in the additional establishments as Agency resources and readiness allow.

Comment: A consumer advocacy organization recommended that FSIS implement one new provision in the rule at a time and assess the potential food safety impact of each change before implementing the next provision. The comment said that the Agency must ensure that microbial contamination rates on carcasses continue to improve as incremental changes are implemented. For example, before implementing other changes for the NPIS, this consumer advocacy organization suggested that FSIS implement the proposed new mandatory testing provisions that would apply to all poultry slaughter establishments. According to the comment, all poultry establishments should be required to operate under the new testing program for at least 90 days to generate a baseline that FSIS could use to assess the effects that the additional proposed measures may have on contamination rates. This comment stated that after establishments have generated the necessary baseline data, FSIS could implement additional program changes while assessing the effects on microbial contamination rates against the existing baseline data to ensure that individual changes do not negatively impact process controls. The comment said that if establishments demonstrate that they are maintaining process control as each change is implemented, FSIS could consider additional individual changes.

Response: As discussed above, because establishments operating under the NPIS will have more control over their lines and greater flexibility to implement new technologies, it is difficult to predict how establishments will implement the NPIS when this rule becomes effective. Thus, it would be difficult to develop an NPIS implementation strategy to assess individual changes adopted by each establishment that could be applied consistently across the industry.

However, as discussed earlier in this document, after considering the comments, FSIS agrees that it is important to assess establishments' ability to maintain process control as they implement changes to operate under the NPIS. Therefore, to allow the Agency to assess the impact of the various changes implemented by establishments to operate under the NPIS, the maximum line speed under the NPIS will be 140 bpm for young chickens. This is the maximum line speed permitted under the existing poultry inspection systems under SIS.

After the NPIS has been fully implemented on a wide scale, and the Agency has gained at least a year of experience under the new system, FSIS intends to assess the impact of changes adopted by establishments operating under the NPIS by evaluating the results of the Agency's *Salmonella* and *Campylobacter* verification sampling, reviewing documentation on establishments' OCP performance, and considering other relevant factors. FSIS will consider this information in assessing whether establishments operating under the NPIS have implemented measures that are effective in maintaining process control.

Furthermore, under this final rule, large establishments, small establishments, and very small establishments will be required to implement the new microbiological sampling requirements 90 days, 120 days, and 180 days, respectively, after the publication of this final rule. Therefore, depending on when each establishment converts to NPIS, they will likely have already implemented the new sampling requirements when they transition to NPIS. When establishments transition to the NPIS, they will be expected to maintain records, including records of their test results, to demonstrate that they are maintaining process control. Therefore, FSIS has concluded that it is not necessary to require that establishments generate a baseline for at least 90 days before implementing the NPIS.

Comment: A State Department of Agriculture stated that the smallest volume establishments should have the longest time to comply because they will find it difficult to implement certain sections of the proposed rule because of limitations in personnel, budget, time, and expertise in microbiology. As an example, the comment said that very small establishments may need additional time to implement their revised sampling programs.

Response: FSIS agrees that small businesses should have more time to implement the new sampling requirements. Small establishments will have 120 days and very small establishments will have 180 days to implement the regulations that prescribe procedures for controlling visible fecal contamination in 9 CFR 381.65(f), the regulations that prescribe procedures for controlling contamination throughout the slaughter and dressing process in 9 CFR 381.65(g), and the recordkeeping requirements in 9 CFR 381.65(h).

Comment: A poultry producer and a trade association stated that FSIS should consider allowing industry the option of staggering implementation by line and shift as coordinated between establishment management and the District Office. This poultry producer argued that this will allow the industry to conduct on-the-job training with staff and help the Agency reallocate inspection resources over a period of time instead of having to reassign an entire establishment of inspection program personnel all at once.

Response: FSIS has decided not to give establishments the option to stagger implementation by line and shift. It would be too difficult for FSIS to perform its inspection activities at establishments that are operating different lines or shifts under the NPIS and one of the other inspection systems at the same time. For Agency planning and resource purposes, if an establishment wants to convert to the NPIS, all of the establishment's lines and shifts will be required to switch to the NPIS during the transition.

Comment: A few trade associations stated that implementation plans should be establishment specific. One trade association stated that these establishment specific plans should be based on the systems, methods of processing, and supply considerations of that establishment. Another trade association argued that establishments should be allowed to develop individualized implementation plans in coordination with their District Offices to facilitate Agency planning and resource allocation.

One trade association stated that there should be a significant transition period where establishments may continue to operate under their current inspection system while developing their implementation plans and making them available to the Agency. Under the trade association's plan, the Agency would have a set period of time to comment on the plans, after which establishments would begin making the necessary financial, facility, and personnel changes to implement the NPIS. The trade association also recommended that the Agency publish a list of pre-approved implementation strategies in an FSIS notice and encourage establishments to use strategies from the list to develop their individualized implementation plans.

Response: FSIS expects that establishments will work closely with their District Offices to implement the NPIS. As stated above, all young chicken and turkey slaughter establishments will have 6 months from the date of publication of this final rule to notify their District Office in writing whether they intend to operate under the NPIS during the initial transition period. FSIS will attempt to accommodate establishments' requests to transition to the NPIS at the times stated in their notification to the District Office. However, FSIS will be implementing the NPIS by clusters of establishments in close geographic proximity to one another. The system that FSIS will be using to determine the schedule of establishments for implementation of the NPIS is described above. Once an establishment is selected to convert to the NPIS, the District Office will work with the establishment to successfully transition its operations.

FSIS does not plan to publish a list of pre-approved implementation strategies. However, if an establishment wants to make changes to its operation to prepare for conversion to the NPIS, FSIS will try and accommodate those changes as long as they do not affect FSIS inspection activities or procedures. For example, if an establishment operating under the current system wants to have employees practice sorting by removing carcasses with septicemic or toxemic conditions from the line before inspection and include these condemned birds in the official Lot Tally totals, the FSIS District Office will work with the establishment to try to accommodate such a request. FSIS will consider these requests on a case-by-case basis. FSIS has concluded that allowing this type of flexibility will help establishments successfully transition to the NPIS.

Comment: A consumer advocacy organization stated that before FSIS allows an establishment to transition to the NPIS, the Agency should require that the establishment demonstrate that it is financially capable of meeting the new requirements and assuming its new role under the new inspection system. The comment stated that the theory behind the consideration is that a firm under financial duress might cut corners in its processes that could compromise food safety.

Response: Before an establishment is allowed to transition to the NPIS, the establishment will need to develop a plan to meet the new requirements. FSIS will not be imposing any financial requirements on establishments before they are allowed to transition to the NPIS. Once an establishment transitions to NPIS, it will have to demonstrate that it is maintaining process control.

In addition, as discussed above, rather than eliminate SIS, NELS, and NTIS, as was proposed, this final rule will leave in place all existing inspection systems. Thus, establishments that do not have the resources to convert to the NPIS during the first implementation phase will have the flexibility to operate under the inspection system that is best suited to their operations. These establishments will also have the option to convert to the NPIS at a later date without having to convert to a modified Traditional Inspection first.

Comment: Several industry members and trade associations stated that the proposed rule lacks detail regarding implementation and that implementation plans need to be clearly communicated to industry through listening sessions or roundtables like HACCP or PHIS implementation to help successful transition to the NPIS. One poultry producer believed that FSIS may benefit from hosting a public meeting to receive feedback on how best to implement the NPIS. One trade association stated that the Agency needs to work closely with stakeholders on implementation. One trade association also stated that communication with inspection program personnel needs to happen well before implementation and that communication materials need to be shared with industry in an open and transparent manner.

Response: This final rule provides more detail regarding implementation if an establishment chooses the NPIS. FSIS intends to communicate its plans to industry, inspection program personnel, other stakeholders, and the public through additional means as necessary. Before implementation, FSIS will communicate with its inspection program personnel about the NPIS and provide them with materials regarding the NPIS. FSIS issues instructions to inspection program personnel through FSIS Notices and Directives, which are published on the FSIS Web site and are accessible to the public.

Comment: Several industry members and trade associations stated that FSIS needs to provide clear and consistent guidance to FSIS personnel and industry. One poultry producer argued that FSIS should provide industry with the training tools utilized for inspection program personnel under the existing slaughter systems to facilitate the transition to the NPIS. Additionally, one trade association stated that a compliance guide (e.g., describing training related to quality defects and disease conditions) that is at least equivalent to FSIS's expectations of its inspection program personnel should be created. A State Department of Agriculture and a trade association stated that FSIS needs to provide scale-appropriate guidance and training materials (e.g., guidance on developing anti-contamination procedures and sampling programs) to small and very small establishments to assist in compliance with the rule.

Response: As stated previously, FSIS has converted the current instructions that it provides Agency inspectors into guidance for industry to use to train establishment sorters. This guidance is available on the FSIS Web site at: *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/compliance-guides-index*.

FSIS intends to provide guidance to industry on the new sections of this final rule, including the new sampling plans. Guidance and training materials will be scale-appropriate and will focus on guidance that is appropriate for small and very small establishments.

Comment: Several trade associations advocated that the Agency should create an experienced group of experts to coordinate implementation of the NPIS, address key issues that arise during implementation, and focus on facility and inspector concerns. According to one of the trade associations, this approach would minimize cost and

disruption to the industry and inspection, provide mutually beneficial training opportunities, and ensure a consistent approach to implementing the NPIS across the nation. Several trade associations stated that the group of experts should function as an operational hotline (similar to the Agency's Small Plant Hotline) to quickly address questions from establishments and inspectors about the NPIS and how it is supposed to work in specific situations.

Response: The Agency will continue to provide technical support to its workforce and industry through its standard channels. For example, FSIS will continue to encourage referring questions to its Policy Development Staff through askFSIS at *http://askfsis.custhelp.com* or by telephone at 1–800–233–3935. Members of the Policy Development Staff were involved in the development of this final rule and will have the expertise to address issues that arise during implementation of this final rule. FSIS believes that its existing Agency resources are sufficient to address issues that arise with respect to this final rule. Additionally, the Agency will be providing appropriate instructions, guidance, and training to its inspectors on the NPIS. The Agency will also provide guidance to industry that will help establishments with regard to this final rule.

F. Line Speeds and Worker Safety

1. Collaboration With the National Institute for Occupational Safety and Health

The National Institute for Occupational Safety and Health (NIOSH) is part of the Centers for Disease Control and Prevention (CDC) in the Department of Health and Human Services. NIOSH's mission is to generate new scientific knowledge and provide practical solutions vital to reducing risks of illness, injury, and death in the field of occupational safety and health, and transfer that knowledge into practice. In the proposed rule, FSIS acknowledged the potential for an increase in inspection line speed to affect establishment employee safety (77 FR 4423–4425). The Agency explained that to obtain preliminary data on the matter, it had asked NIOSH to evaluate the effects of increased inspection line speeds on establishment worker safety by evaluating the inspection lines and workers from establishments that had been granted waivers from line speed restrictions under the SIP. As noted in both the proposed rule and the **Federal Register** document to extend the comment period, NIOSH initiated such an evaluation in one non-HIMP establishment that is operating under a waiver from line speed restrictions under SIP (77 FR 4423 and 77 FR 2487).

The current NIOSH evaluation assessed this establishment prior to any changes allowed under the SIP line speed waiver, and also after changes were implemented. NIOSH completed its evaluation and made its final report available to the public in March 2014 (Evaluation of *Musculoskeletal Disorders and Traumatic Injuries Among Employees at a Poultry Processing Plant;* Report No. 2012–0125–3204, March 2014. Available on the Internet at: *http://www.cdc.gov/niosh/hhe/reports/pdfs/2012-0125-3204.pdf*). The report describes NIOSH's findings and recommendations from an evaluation conducted before and after the establishment combined two evisceration lines into one and increased the evisceration line speed. The NIOSH evaluation provides valuable information to FSIS, the Department of Labor's Occupational Safety and Health Administration (OSHA), and other stakeholders.

FSIS considers the NIOSH evaluation to be an important first step in measuring any impact of evisceration (or inspection) line speeds on workers in poultry slaughter and processing establishments. Without the NIOSH evaluation and access that FSIS was able to ensure, such information likely would not be developed. As stated previously, FSIS will consider the available data on employee effects collected from NIOSH activities when implementing the final rule. FSIS has committed to working with NIOSH and OSHA on disseminating the guidance resulting from the current NIOSH study, and ensuring greater awareness by FSIS and the industry about worker safety and health.

2. Collaboration With OSHA

OSHA is an agency of the United States Department of Labor, and was created to assure safe and healthful working conditions for working men and women by setting and enforcing standards and by providing training, outreach, education, and assistance. OSHA is helping FSIS address the health and safety of FSIS inspectors when they are performing their duties in federally-regulated establishments. FSIS has an Occupational Safety and Health Division, comprised of professional Occupational Safety and Health Specialists, a Certified Professional Ergonomist, Certified Industrial Hygienists, and Certified Safety Professionals dedicated to ensuring a safe and healthful work environment for FSIS employees. FSIS is in the process of establishing a Safety and Health Committee made up of program representatives as well as members of the National Joint Council of Food Inspection Locals to ensure continual improvement of FSIS's safety and health programs. FSIS has recently placed an increased emphasis on occupational safety and health for its employees, and has identified a reduction of the injuries and illnesses for FSIS employees as a key measure in the FSIS Strategic Plan for FY 2011–2016.[11] FSIS Directive 4791.12, ''*Reporting and Correcting Occupational Hazards,*'' and FSIS Directive 4791.13, ''*Workplace Inspections, and Injury, Illness and Motor Vehicle Incident Reporting,*'' provide FSIS inspection personnel with procedures for reporting and correcting workplace safety and health hazards that affect FSIS employees. FSIS AgLearn Course 8500, ''*Recognizing and Reporting Occupational Safety and Health Hazards,*'' is available to improve FSIS employees' ability to recognize and report workplace safety and health hazards in accordance with the FSIS worker safety directives.

FSIS also recognizes the importance of establishment worker safety and will work with OSHA to heighten FSIS employees' awareness of serious occupational safety hazards in FSIS-regulated establishments. FSIS has begun working with OSHA to continually update and improve the training of FSIS inspectors in recognition of serious workplace hazards and will provide a referral system to report such hazards to OSHA. The Agency will issue an FSIS Notice, ''*Procedures for Notifying the Occupational Safety and Health Administration (OSHA).*'' The notice establishes a procedure for FSIS inspection personnel to notify OSHA directly of serious workplace hazards that may affect non-federal establishment personnel in meat and poultry products establishments and in egg product plants. The notice provides inspection personnel with OSHA's confidential 1–800 number to refer an occupational safety or health concern for a plant employee directly to OSHA.

FSIS has also taken action to encourage establishments to comply with OSHA requirements. In May 2011, the Agency published an article on ''*Reporting Work Related Injuries*'' in its ''Small Plant News'' publication.[12] The

[11] *http://www.fsis.usda.gov/wps/portal/informational/aboutfsis/strategic-planning/strategic+planning/.*

[12] ''Small Plant News, Vol. 4, No. 2. Available on the Internet at: *http://www.fsis.usda.gov/wps/wcm/*

article discussed the importance of OSHA's requirements for recording and reporting work-related injuries, illnesses and fatalities, and provided guidance to small establishments on how to comply with these requirements. The article encouraged small establishments to contact OSHA with any questions on OSHA's requirements and included contact information for OSHA's regional recordkeeping coordinators.

The Agency published another worker safety article in the December 2012 ''Small Plant News'' titled ''*Know OSHA's Safety and Health Standards.*'' [13] The article provides an overview of the OSHA regulations that affect federally-inspected meat and poultry establishments and processed egg products plants. It also provides an excerpt of the standards described in OSHA's Small Business Handbook and provides a link that allows interested parties to access the document on the Internet.

As part of FSIS's ongoing collaboration with OSHA, FSIS had numerous discussions with OSHA during the development of this final rule on how best to address potential issues related to line speeds and worker safety. As discussed above, to allow FSIS to assess the impacts of changes implemented by establishments that convert to the NPIS, the maximum line speeds under the NPIS established in this final rule will be 140 bpm for young chickens instead of 175 bpm, as was proposed. The highest maximum line speed under the current inspection systems is 140 bpm under SIS. Thus, under this final rule, any increase in line speed that establishments implement under the NPIS will not exceed the maximum line speeds authorized under the existing inspection systems.

OSHA has provided FSIS with a set of recommended actions that poultry establishments can take to address the health and safety of establishment employees. These recommendations are as follows:

- Develop and implement policies to encourage prompt reporting of injuries and illnesses;
- Evaluate existing programs to ensure that they do not discourage employees from reporting injuries and illnesses;
- Implement a training program for employees on job hazards, early symptoms of illnesses and injuries, and how to prevent them. Ensure that training is offered in a manner and language that workers can understand;
- Conduct routine surveillance of injury and illness logs as well as the workplace to identify potential job hazards;
- Establish an employee complaint or suggestion procedure designed to allow employees to raise job hazard issues without fear of reprisal;
- Request employee feedback on workplace modifications; and
- When job hazards are identified, implement mitigating measures.

FSIS and OSHA agree that surveillance for injuries and illnesses is particularly important to identify whether workers are experiencing adverse health or safety effects when performing their duties and to trigger appropriate intervention if they are.

Although FSIS does not have the authority to require that establishments adopt these recommendations, the Agency believes that prudent establishments will consider them carefully. FSIS recommends that establishments develop plans to implement OSHA's recommendations. FSIS expects establishments to adopt the OSHA recommendations discussed in this preamble and any other reasonable measures to minimize the risk of adverse health and safety effects to establishment employees. Establishments are reminded that Federal and State OSHA retain authority over assuring worker safety, and that OSHA will be paying close attention to poultry slaughter establishments, including those that elect to operate under the NPIS. FSIS recommends that establishments review OSHA's recordkeeping regulations at 29 CFR 1904, OSHA's General Industry Standards at 29 CFR 1910, and OSHA's Prevention of Musculoskeletal Injuries in Poultry Processing (*https://www.osha.gov/Publications/OSHA3213.pdf*).

In addition to the recommended actions to enhance surveillance for work-related injuries and illnesses, OSHA also recommended that establishments implement an employee injury and illness prevention program. FSIS and OSHA agree that injury and illness prevention programs may substantially reduce the number and severity of workplace injuries and alleviate the associated financial burdens on U.S. workplaces. Most successful injury and illness prevention programs are based on a common set of key elements, including management leadership, worker participation, hazard identification and assessment, hazard prevention and control, education and training, and program evaluation and improvement.[14] The Agency expects that a prudent establishment would have such a program in place. FSIS recommends that establishments that do not have existing employee illness and injury prevention programs adopt OSHA's recommendation and take the necessary actions to begin to implement such a program.

All poultry establishments are required to comply with applicable laws administered by other agencies, including the occupational safety statutes administered by OSHA. To stress the importance of establishment worker safety, FSIS has modified the proposed regulation that prescribes maximum line speed rates under the NPIS to emphasize establishments' existing legal obligation to comply with OSHA statutes. Thus, 9 CFR 381.69 now includes a new paragraph (d) that states that establishments operating under the line speed limits authorized in this section shall comply with all other applicable requirements of the law, including, but not limited to, 29 U.S.C. 654(a). Although this new paragraph is included in the regulation that prescribes line speeds for establishments operating under the NPIS, establishments operating under any inspection system also must continue to comply with all other applicable requirements of the law.

FSIS supports collaboration among industry, academia, and governmental bodies such as OSHA, NIOSH, and FSIS to identify causal relationships between workplace factors and musculoskeletal disorders (MSDs), and develop mitigation strategies that are technically and economically feasible. The NIOSH evaluation is a strong starting point for this effort, but additional work may be needed.

3. General Comments on Line Speed and Worker Safety

In the **Federal Register** document to extend the comment period on the proposed rule, FSIS requested comments on the effects of increased line speeds and production volume on worker safety (77 FR 24877). FSIS received many comments on this issue from worker and human rights advocacy organizations, poultry establishment employees, consumer advocacy

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[13] ''Small Plant News, Vol. 6, No. 3. Available on the Internet at: *http://www.fsis.usda.gov/wps/wcm/connect/1b75a216-fa3c-43fb-a5eb-7cc27ed942fa/Small_Plant_News_Vol6_No3.pdf?MOD=AJPERES.*

[14] OSHA [2013]. Prevention of Musculoskeletal Injuries in Poultry Processing. U.S. Department of Labor, Occupational Safety and Health Administration, OSHA 3213–09N; available at: *https://www.osha.gov/Publications/OSHA3213.pdf.*

OSHA [2012]. Injury and Illness Prevention Programs—White Paper. U.S. Department of Labor, Occupational Safety and Health Administration; available at: *http://www.osha.gov/dsg/InjuryIllnessPreventionProgramsWhitePaper.html.*

organizations, labor unions, public health associations, members of academia, companies that own poultry slaughter establishments, trade associations that represent the poultry industry, and private citizens. The vast majority of comments that the Agency received in response to the proposed rule were on this issue.

Many of the comments stated that FSIS should consult with NIOSH and OSHA on the final rule. Additionally, many of the comments submitted by workers and human rights advocacy organizations, immigrant advocacy organizations, consumer advocacy organizations, labor unions, public health associations, and members of academia said that FSIS should withdraw the proposed rule because of risks that the proposed increased maximum line speeds could potentially pose to the health and safety of thousands of poultry slaughter and processing workers. These comments said that if FSIS does not withdraw the rule, the Agency should at least withhold implementation until NIOSH completes a comprehensive study of the effect of production line speed on the health and safety of workers, and OSHA considers any implications for potential rulemaking.

Most of these comments referred to governmental reports, or research studies published in the occupational and public health literature. The most commonly cited sources included:

- The 2005 GAO report, which linked production line speed to occupational injury and illness rates in the slaughter industry and called for independent research to better understand this relationship;
- 2010 Bureau of Labor Statistics (BLS) data showing that injury rates were higher among poultry processing workers than the overall private industry average, and that more lost time, job transfers and restricted duty were incurred in the poultry industry than the overall private industry average;
- A study by the Wake Forest School of Medicine Center for Worker Health, which reported a 59% prevalence of carpal tunnel syndrome (CTS) symptoms among Latino workers at selected poultry plants in North Carolina operating under the existing inspection systems; and
- A 2007 study by researchers from the Duke University Medical Center's Division of Occupational and Environmental Medicine, which found that among low-income African-American women in rural North Carolina the prevalence of musculoskeletal symptoms of the upper extremities and neck was 2.4 times higher in those working at poultry plants compared to workers in other local industries.

Most commenters were concerned that an increase in production line speed would lead to increased rates of musculoskeletal disorders, other traumatic injuries, and potentially adverse health effects of psychological and emotional stress among industry workers, particularly in processing jobs involving highly repetitive knife use. These will be discussed below.

4. Inspection Line Speed, Processing Line Speed, and Production Volume

The 2005 GAO report recognized that the speed of the production line may be ''an important factor influencing (worker) safety and health.'' FSIS acknowledges NIOSH's finding of a strong relationship between risk factors, such as prolonged or repetitive hand activity, gripping force and exposure to cold, and MSDs including carpal tunnel syndrome (CTS) in the processing environment. Increasing line speed in processing, without changing other factors, could result in an increase of work pace for establishment employees, and increasing work pace among establishment employees, without taking appropriate mitigation actions, could increase risk of injuries and illnesses among establishment employees.

FSIS believes a key distinction should be made between processing line speed, inspection line speed, and daily production volume. The regulations require that establishments operate processing lines in a manner that maintains sanitary conditions and that will result in the production of poultry and poultry products that are not adulterated (9 CFR 381.65(a)). As the GAO report and many comments have pointed out, the poultry regulations limit the speed of poultry inspection lines to enable FSIS inspectors to effectively inspect each carcass presented to them. The current poultry regulations and this final rule do not prevent industry from running a processing line faster or slower than the inspection line. Slaughter establishments have always had the ability, at their discretion, to balance operating hours, staffing levels, and production line speed in processing departments to match the output of the inspection line. For example, an establishment could choose to operate its processing department at twice the speed of the inspection line, for half of the operating hours. Likewise, it could increase staffing in a processing department and slow the line speed proportionally to handle the volume of birds coming from the inspection line. These are operational and economic decisions made by each establishment, rather than a matter of FSIS regulations.

Slaughter establishments must make operational and economic decisions balancing staffing levels, production line speeds, and operating hours to accommodate daily production volume. While inspection line speed does influence daily production volume, establishments determine their own maximum production volume through the number of inspection lines they choose to operate.

We also note the difference between line speed and work pace. While work pace in processing departments is influenced by inspection line speed, factors such as staffing levels, plant layout, and product flow are more important predictors of work pace, as described in the following examples. FSIS does not directly regulate these factors.

For example, if a single inspection line feeds a single processing line (e.g., manual deboning), the work pace of processing workers will depend on the number of workers assigned to that line. If the birds from a single processing line are exiting the chiller at a maximum of 140 bpm, and if ten workers are assigned to that processing line, each worker will have an average work pace of 14 bpm. Adding an eleventh worker would reduce the work pace to an average of 12.7 bpm per worker. Additional staffing would reduce the workload proportionally.

If, under this same scenario, the establishment changes its layout to add a second identical processing line staffed with 10 additional workers, the work pace for each worker would decrease from 14 bpm to 7 bpm. These are just some examples of how factors other than line speed are more likely to affect work pace.

Industry employees' actual exposure to MSD risk factors, such as repetitive or prolonged hand activity, will be affected by the number of birds presented to each worker during a shift and the amount of time each bird is in position to be worked on. In the simplest model of an equal number of inspection and processing lines, it may be that inspection line speed will influence the maximum processing line speed. The Agency does not believe, however, that this model adequately represents the industry as a whole, where a single inspection line may feed multiple processing lines or different end products. Although the inspection line speed is a potential factor, economic factors (e.g., consumer

demand and staffing/equipment capacity) will ultimately determine the number of birds presented to each worker for processing during a shift. These economic factors are addressed by industry and not regulated by FSIS.

5. Factors Influencing Inspection Line Speed

Many comments seem to assume that the faster line speeds for poultry inspection included in the proposed rule (but not included in the final rule) that would necessarily have been authorized under the NPIS would result in a very large increase in the volume of poultry products being processed by workers. However, as discussed earlier, line speed is not directly equivalent to production work pace; inspection line speed does not directly impact plant employees in further stages of an establishment (e.g., on the processing line).

The proposed faster line speeds for inspection—not included in this final rule—would have allowed establishments to slaughter the birds more efficiently but would not necessarily have led to a substantial increase in processed output; consumer demand for poultry products determine the number of birds slaughtered rather than line speeds.

FSIS thinks that establishments choosing to operate under the NPIS will determine their line speeds based on the same factors that establishments considered when setting line speeds under HIMP.

6. Inspection Line Speed and Inspector Safety Under the NPIS

Comment: A labor union expressed concern about the potential effects to the online CI if the proposed faster maximum line speed that would have been authorized under the NPIS. The comment said that the purpose of the NIOSH study described in the proposed rule is to assess the effects of line speeds on establishment personnel. The comment stated that the faster line speeds that would have been permitted under the NPIS would also likely affect inspection personnel.

The comment noted that the NIOSH will study ''a maximum of five non-HIMP establishments that applied through the SIP to receive waivers of existing regulations restricting line speeds.'' The comment expressed concern that the NIOSH study is only intended to gather additional data of the effects of line speeds on the worker safety without saying how increased line speeds have the potential to cause unintended or foreseeable safety issues. The comment questioned how this plan to gather additional data will relate to ensuring FSIS online CIs are adequately protected, or how actual safety issues will be remedied. The comment said that before FSIS decides to implement the NPIS, it should make a serious, scientific inquiry into the potential dangers related to the online inspector's new position.

Response: Under the NPIS, establishment employees rather than online inspectors will be responsible for conducting sorting activities. Therefore, the online inspection procedures under the NPIS do not require that the CI touch or handle each carcass. Thus, because CIs will have infrequent contact with the carcasses, their inspection activities will involve less frequent head and hand motions than are conducted under the existing non-HIMP inspection systems. In addition, as discussed above, FSIS has revised the proposed facilities requirements for the online carcass inspection platform to require that the platform be height-adjustable to accommodate the individual CI. Based on recent studies published in the occupational health literature, FSIS believes the reduction in hand activity under the new inspection system will lead to a reduction in the risk of musculoskeletal disorders for inspection personnel.

7. Industry Efforts To Address Worker Safety

Comment: Some comments from trade associations agreed that worker safety must be considered when establishing line speeds, and stated that establishments do take worker safety into account. However, the comments maintained that worker safety should be addressed separately from food safety. The comments said the poultry industry has a strong record of working with OSHA to help in OSHA's efforts to protect the safety and health of employees, most recently with a formal OSHA Alliance from 2007–2009. The comments expressed support for working with the government and industry to maintain a strong safety record.

Response: FSIS will support effective industry efforts to protect the health and safety of employees. FSIS also supports industry collaboration with OSHA and NIOSH, and encourages the industry to work with OSHA to further protect the health and safety of employees. FSIS is willing to work with industry when it is appropriate and useful to do so to move collaborative efforts forward with OSHA.

Comment: Two trade associations representing the poultry industry stated that after 13 years of the HIMP pilot program, the data indicate that the rate of worker injuries in HIMP establishments has been on average at or below industry average rates. One comment said that, in many instances, turkey HIMP establishments have reported worker injury rates well below the already low industry average.

One comment stated that a recent survey of broiler establishments participating in the Agency's HIMP pilot shows that, for both Total Recordable Injury Rates and Days Away, Restricted, or Transferred (DART) Rates, HIMP establishments are as safe for workers as establishments that operate under non-HIMP inspection systems. According to the comment, there is no statistical difference between establishments involved in the HIMP pilot project and establishments that operate under non-HIMP inspection systems with respect to Total Recordable Injury Rates and DART Rates.

Response: The information provided in the comment suggests that worker injury rates in HIMP establishments may be at or below the worker injury rates in non-HIMP establishments. However, because the comment did not discuss the details on how the survey was conducted, the Agency is unable to assess the findings. As noted above, FSIS encourages the trade association and its members to work with OSHA on worker safety issues. It may be useful for the trade association to submit its survey and findings to OSHA, since OSHA has the expertise in evaluating this type of information regarding worker health and safety.

8. Reporting of Work-Related Injuries

Comment: Several comments said that although the data show that workers in the poultry slaughter and processing industry suffer adverse health and safety effects under the existing line speeds, studies indicate, and statements by poultry workers confirm, that the official injury statistics fail to accurately represent the extent to which worker injuries and musculoskeletal diseases and disorders affect workers in the poultry slaughter and processing industry.

The comments said that workers in the poultry industry are regularly discouraged by their employers from reporting work-related health conditions or seeking relief under the workers' compensation system. The comments also stated that workers do not report injuries for a variety of reasons, including concern about work hours, job security, and residency status in the United States. The comments added that injuries sustained by workers who are dismissed or resign during their initial

three month probationary period are also not reported. The comments noted that OSHA has recognized that there are problems related to the under reporting of work-related injuries and established a Special Emphasis Program on underreporting in 2009. According to the comments, OSHA identified poultry processing as a targeted industry under this program.

Response: OSHA is the appropriate agency to address issues associated with the reporting of worker injuries. As discussed above, OSHA has provided several recommendations that poultry slaughter establishments can implement to improve surveillance for worker injuries. FSIS strongly encourages establishments to adopt these recommendations.

FSIS recognizes that systematic underreporting of work-related injuries and illnesses could make it difficult to accurately assess the extent to which poultry workers suffer from work-related injuries and musculoskeletal diseases and disorders.

9. Attestation to FSIS on Work-Related Conditions

As discussed above, in both the proposed rule and the **Federal Register** document extending the comment period, FSIS acknowledged the potential for increased inspection line speed to affect the safety of establishment workers (77 FR 4423–4424 and 77 FR 2487). FSIS also ''recognize[d] that the evaluation of the effects of line speed on food safety should include the effects of line speed on establishment employee safety'' (77 FR at 4423). And as noted above, commenters raised concerns about the effects that increased line speeds might have on the health and safety of workers in poultry slaughter establishments.

Most of these comments expressed concern that workers subject to faster line speeds could suffer increased numbers of occupational injuries and illnesses, particularly musculoskeletal disorders (MSDs) such as carpal tunnel syndrome, and that potential negative effects on workers could also have an adverse effect on poultry safety. The comments specifically noted that MSDs could affect workers to the extent that they could not do their jobs properly, and also addressed the possibility of bacterial contamination between workers and poultry, exposure to other pathogens, and risk of laceration. Moreover, comments also expressed concern that poultry processors' injury and illness logs may not reflect the full extent of work-related conditions experienced by poultry workers. A number of commenters requested that FSIS either withdraw the proposal because of the increased risk of injury to workers, or at least delay implementation of a final rule until NIOSH, a part of the Centers for Disease Control and Prevention in the Department of Health and Human Services, completed a comprehensive study of the effect of line speed on worker safety and health.

As discussed above, in the proposed rule FSIS explained that it asked NIOSH to evaluate the effects of increased inspection line speeds on establishment worker safety by collecting data from establishments that had been granted waivers from line speed restrictions under the SIP (77 FR 4423–4425). NIOSH initiated such a study in one non-HIMP establishment that is operating under a waiver from line speed restrictions under SIP (77 FR 4423 and 77 FR 2487). NIOSH has completed its evaluation and made its final report available to the public in March 2014 (Evaluation of *Musculoskeletal Disorders and Traumatic Injuries Among Employees at a Poultry Processing Plant*; Report No. 2012–0125–3204, March 2014; available on the Internet at: *http://www.cdc.gov/niosh/hhe/reports/pdfs/2012-0125-3204.pdf*). The results from this study lend support to the concerns noted in the comments that poultry processors' injury and illness logs often do not reflect the full extent of work-related conditions experienced by poultry workers.

To address these concerns, FSIS is establishing a new subpart H ''Attestation on Work-Related Conditions.'' Subpart H includes an annual attestation requirement (9 CFR 381.45) and a severability clause (9 CFR 381.46). The attestation provision requires that each establishment that operates under the NPIS provide an annual attestation to the management member of the local FSIS circuit safety committee stating that the establishment maintains a program to monitor and document any work-related conditions that arise among establishment workers. The elements of this program include:

(1) Policies to encourage early reporting of symptoms of work-related injuries and illnesses, and assurance that the establishment has no policies or programs intended to discourage the reporting of injuries and illnesses.

(2) Notification to employees of the nature and early symptoms of occupational illnesses and injuries, in a manner and language that workers can understand, including by posting in a conspicuous place or places where notices to employees are customarily posted, a copy of the FSIS/OSHA poster encouraging reporting and describing reportable signs and symptoms.

(3) Monitoring on a regular and routine basis of injury and illness logs, as well as nurse or medical office logs, workers' compensation data, and any other injury or illness information available.

As discussed earlier in this document FSIS has decided to allow the 20 young chicken establishments that have been granted SIP waivers to operate under the HIMP inspection system to continue to operate under a SIP waiver to run at line speeds of up to 175 bpm. FSIS will also update these SIP waivers to remove aspects of HIMP that are inconsistent with the NPIS, such as the OCP performance standards. To ensure that the updated SIP waivers are consistent with the NPIS, the Agency will also require that establishments operating under the updated waivers submit the annual attestation discussed above as a condition of their waivers.

The severability clause states that should a court of competent jurisdiction hold any provision of part 381 to be invalid, such action shall not affect any other provision of part 381 (9 CFR 381.46).

As OSHA is the Federal agency with statutory and regulatory authority to promote workplace safety and health, FSIS will forward the annual attestations to OSHA for further review. OSHA, in turn, may use the information in the attestations in its own enforcement program. FSIS employees will not be responsible for determining the merit of the content of each establishment's monitoring program or enforcement of noncompliance with this section. FSIS will work with OSHA to develop the poster that establishments must display providing information on the signs and symptoms of occupational injuries and illnesses experienced by poultry workers, and about workers' rights to report these conditions without fear of retaliation.

Consistent with the mandate of E.O. 12866, OSHA has advised FSIS that the development and implementation of such a monitoring program will enable establishments both to protect their workers and to identify illnesses and injuries. Prompt intervention will also reduce the costs associated with worker injury by enabling establishments to adjust their processes or implement other appropriate measures before additional employees are affected.

G. Changes That Affect All Establishments That Slaughter Poultry Other Than Ratites

In addition to proposing to establish the NPIS, FSIS also proposed changes to

the regulations that would apply to all establishments that slaughter poultry other than ratites. The Agency proposed that all poultry slaughter establishments develop, implement, and maintain written procedures to ensure that carcasses contaminated with visible fecal material do not enter the chiller and that they incorporate these procedures into their HACCP plans, or sanitation SOPs, or other prerequisite programs (77 FR 4426). The Agency also proposed to require that all poultry slaughter establishments develop, implement, and maintain, as part of their HACCP systems, written procedures to prevent contamination of carcasses and parts by enteric pathogens, e.g., *Salmonella* and *Campylobacter,* and fecal material throughout the entire slaughter and dressing process, and that they maintain daily records sufficient to document the implementation and monitoring of those procedures (77 FR 4427). The Agency proposed that at a minimum, these procedures must include sampling and analysis for microbial organisms at the pre- and post-chill points in the process to monitor process control for enteric pathogens.

The proposed new requirements are designed to ensure that establishments incorporate process control measures to prevent contamination into their HACCP systems, and that they develop and maintain documentation to verify the effectiveness of their procedures on an ongoing basis. In the preamble to the proposed rule, the Agency explained that it would verify that establishments' procedures are effective by reviewing the establishment's monitoring records, including the establishment's microbiological testing results, observing the establishment implementing its procedures, and inspecting carcasses and parts for visible fecal contamination when performing both online carcass inspection and offline verification inspection (77 FR 4427).

Under the proposed rule, each establishment would be responsible for developing and implementing a microbiological sampling plan, which would be required to include carcass sampling at pre-chill and post-chill (77 FR 4428). The Agency also proposed to rescind the regulations that require that poultry establishments test for generic *E. coli* and to remove the codified *Salmonella* pathogen reduction standard for poultry. The proposed new microbiological sampling requirements would replace the generic *E. coli* testing regulations and would allow establishments to develop sampling plans that are more tailored, and thus more effective for monitoring their process control. FSIS would consider both the establishment's testing results, as well as the results of the Agency's testing Salmonella and Campylobacter performance standards, to assess how well the establishment is maintaining process control.

FSIS received several comments on these proposed new requirements.

1. Procedures and Recordkeeping Requirements for Preventing Contamination by Enteric Pathogens and Visible Fecal Contamination

Comment: A consumer advocacy organization and an individual expressed support for the proposed new requirement that all establishments that slaughter poultry develop, implement, and maintain, as part of their HACCP systems, written procedures to prevent carcass contamination throughout the entire slaughter and dressing process. The consumer advocacy organization also supported the proposal to require that all poultry slaughter establishments develop, implement, and maintain written procedures to ensure that carcasses contaminated with visible fecal material do not enter the chiller, and incorporate these procedures into their HACCP systems. According to the comments, the proposed new requirements address a weakness of the current poultry inspection system, which is that verification checks performed at the end of the slaughter and chilling process encourage the industry to focus its activities on post-process interventions to reduce contamination rather than prevention throughout the slaughter process.

The comments also expressed support for the proposed requirement that establishments maintain daily records sufficient to document the implementation and monitoring of their procedures for preventing contamination by enteric pathogens and fecal material. The comments noted that many establishments may have in place process control measures that attempt to address contamination by enteric pathogens and fecal material, but nothing currently requires that the establishments develop and maintain documentation to verify on an ongoing basis that these procedures are effective. The comments said that without this documentation, establishments can quickly lose process control or rely on procedures that contribute to an ongoing risk of contamination. The comments stated that the documentation proposed by the Agency will allow both the establishment and the Agency to identify points of weak process control, and can provide a roadmap for corrective action.

Response: FSIS agrees that requiring establishments to keep daily written records to document the implementation and monitoring of their process control procedures is a positive step forward for public health. This ongoing documentation will allow both the establishment and FSIS to identify specific points in the production process where a lack of process control may have resulted in product contamination or insanitary conditions. This will allow the establishment to take the necessary corrective action to prevent further product contamination.

Comment: One trade association stated that it is unclear what additional steps will be required in regard to sanitary dressing. According to this trade association, all of its members already have significant sanitary procedures in place.

Response: As noted above, in the preamble to the proposed rule, FSIS acknowledged that many establishments have in place process control measures to address the prevention of contamination by enteric pathogens and fecal material, but that they are not maintaining documentation to verify the effectiveness of these procedures on an ongoing basis (77 FR 4427). Under this final rule, establishments will be required to incorporate these procedures into their HACCP systems, and to maintain ongoing documentation to demonstrate that the procedures are effective. As noted above, this ongoing documentation will allow both the establishment and FSIS to identify specific points in the production process where a lack of process control may have resulted in product contamination or insanitary conditions.

2. Sampling and Testing Requirements To Monitor Process Control

a. Sampling Plan and Sampling Sites

Comment: Several consumer advocacy organizations and a member of academia disagreed with the Agency's proposal to allow each establishment to develop its own sampling plan. These comments argued that the sampling program needs to be standardized. According to one comment, in other countries, such as New Zealand, the government sets the testing frequencies and indicator pathogens for the industry.

One consumer advocacy organization argued that requiring all establishments to conduct testing for the same organisms, at the same frequency, and at the same locations along the production line will provide the Agency and

stakeholders with valuable data on the impacts of incremental changes in production on contamination levels both within a specific establishment and industry-wide. According to this comment, under the proposed rule, data analysis will be difficult for anyone (e.g., the Agency, inspectors, and establishment management) trying to study the data because of the variations in sampling at each establishment. Another consumer advocacy organization stated that a uniform sampling program can help identify additional steps that should be taken to address hazards, modernize the system, and ensure facilities are operating at line speeds that do not cause poultry contamination to rise.

Response: The purpose of the proposed new sampling requirement is to ensure that establishments monitor and evaluate the effectiveness of their procedures to prevent contamination of carcasses by enteric pathogens and visible fecal material on an ongoing basis. It is not intended to generate data to compare establishment performance across the industry. The data that FSIS collects from its *Salmonella* and *Campylobacter* sampling programs serves that purpose. Because establishments have differences in their operations, FSIS believes that each establishment should have the flexibility to develop a sampling plan that will accurately monitor the effectiveness of its process control procedures while holding the establishment accountable through the Salmonella and Campylobacter performance standards. As discussed below, the Agency is prescribing a minimum frequency with which all poultry establishments will need to collect samples.

FSIS will scrutinize an establishment's monitoring records, including its microbial testing results, to verify the effectiveness of the establishment's process control procedures. The Agency will continue to assess and compare establishment performance across the industry through the Agency's sampling program for *Salmonella* and *Campylobacter.* Under this program, the samples are collected by FSIS inspectors and analyzed by FSIS laboratories, ensuring that the sampling and testing program is consistent, and that the Agency is able to compare establishment performance and industry trends over time.

Comment: Several trade associations and an industry member stated that, instead of requiring sampling at pre- and post-chill, FSIS should allow establishments the flexibility to select the number and sampling sites for their individual operations to demonstrate process control. These comments argued that each establishment is different and that sampling programs must be scientifically based and statistically valid and are most effective when they are establishment specific. According to these comments, sampling in one location could demonstrate process control in one establishment because of certain interventions, but sampling in two locations may be more appropriate to demonstrate process control in another establishment. One trade association believed that providing flexibility in sampling is consistent with HACCP principles, encourages industry innovations in operations and processing, and enables processors to develop new methods for demonstrating process control through sampling.

Response: As stated in the preamble to the proposed rule, FSIS believes that microbiological test results that represent levels of microbiological contamination at key steps in the slaughter process are necessary for establishments to provide comprehensive, objective evidence to demonstrate that they are effectively maintaining process control to prevent carcasses from becoming contaminated before and after they enter the chiller (77 FR 4427). Process control in the context of poultry slaughter consists of the programs and procedures an establishment implements to ensure its processes are operating as intended in preventing contamination (including contamination with microbial pathogens and fecal material) of poultry carcasses and parts throughout the slaughter and dressing process and to ensure that the resulting products meet applicable regulatory standards or definitions. Establishments must demonstrate that their process is in control by implementing verification procedures, collecting data, and developing and maintaining accurate records to demonstrate that their processes and procedures are performing as intended and as required.

An effective process control system entails an establishment responding effectively to re-establish control when its ongoing verification activities show that its processes or procedures are not producing the expected results. Effective process control procedures should lead to lower rates of pathogen contamination because establishments will discover deficiencies in processing sooner and more reliably than would be the case without effective process control procedures.

FSIS considers the microbial characteristics of poultry carcasses at pre-chill to be a valuable source of data about how well an establishment is minimizing contamination with fecal material and enteric pathogens on live birds coming to slaughter and on carcasses throughout the evisceration and dressing process. FSIS considers the microbial characteristics of poultry carcasses post-chill to be a valuable source of data about how well an establishment is minimizing contamination during chilling and the overall effectiveness of any antimicrobial interventions the establishment has chosen to apply throughout its process. Because most establishments apply one or more antimicrobial interventions between the pre- and post-chill sampling points to help control microbiological hazards, FSIS would expect that a reduction in microbiological contamination between these two points to be an indication of the effectiveness of those controls.

Therefore, FSIS is finalizing the proposed requirements that establishments collect samples for microbial analysis at the pre- and post-chill locations to monitor for process control, with an exception for very small and very low volume establishments operating under the Traditional Inspection System. This exception is described below.

Comment: One trade association noted that if the Agency requires sampling pre- and post-chill, the Agency needs to clarify that establishments have the flexibility to select the sampling locations where testing would occur before and after chilling. This comment also argued that the Agency should not require a third sampling location at re-hang because it would be overly prescriptive, burdensome, and would not further food safety.

Response: Under this final rule, establishments will need to collect pre-chill samples before the chiller at the end of the evisceration process. The pre-chill testing is intended to monitor the effectiveness of all process controls up to the point of the chiller. An establishment will need to collect post-chill testing after it has completed all interventions, which is the same point in the process that FSIS collects samples for *Salmonella* and *Campylobacter* verification testing.

As stated in the preamble to the proposed rule, FSIS had considered requiring a third verification test at the re-hang position to monitor the incoming load of pathogens but the Agency concluded that it was not necessary to impose the additional costs that would be associated with testing at this point (77 FR 4428).

Comment: A consumer advocacy organization argued that allowing each establishment to use different tests with different indicator organisms and standards for verifying that their process controls are effective will create problems for inspectors. According to the comment, FSIS inspectors will have to determine on a case-by-case basis whether each test chosen is validated for that purpose and whether the standard used by the establishment is adequate. This comment stated that determining whether a HACCP plan is effective would be more complex for inspectors, whereas the current generic *E. coli* testing program that FSIS proposed to rescind provides an objective test and standard which are familiar to FSIS and industry.

Response: As stated in the preamble to the proposed rule, because an establishment's microbiological sampling plan will be part of its HACCP system, each establishment will be required to provide scientific or technical documentation to support the judgments made in designing its sampling plan (77 FR 4428). FSIS inspection personnel will verify the effectiveness of the establishment's sampling plan by reviewing the supporting documentation and verifying that the establishment is implementing its sampling plan as designed. These procedures are consistent with the methodology that inspectors use to verify the effectiveness of other measures incorporated into an establishment's HACCP system. In addition, FSIS intends to provide training to its inspectors and guidance to industry on all of the new requirements under this final rule, including the new sampling plans. The Agency's inspection personnel will be prepared to carry out their responsibilities to ensure the effectiveness of establishments HACCP systems, including the new sampling requirements, when this final rule becomes effective.

b. Very Small and Very Low Volume Establishment Sampling

Comment: A State Department of Agriculture said that there should be two sampling locations for all establishments, but that the sampling frequency should be scale-dependent, e.g., the frequency should be decreased for very small establishments. The comment noted that it is just as important in a very small establishment as a large one to maintain and document process control, but very small establishments will have proportionally more difficulty than large establishments in absorbing the costs for a second sampling location.

One industry member stated that sampling at small and very small establishments should be the same as at all other establishments. This industry member believed that the specific processes and programs in place, not the size of the establishment or the volume of production, should determine how process control is demonstrated.

Response: In the preamble to the proposed rule, FSIS noted that small and very small low volume establishments that choose to operate under the revised Traditional Inspection System may not need to conduct testing for microbial organisms at two points in the slaughter process to adequately monitor process control (77 FR 4428). These establishments typically are less automated and run at slower line speeds than larger establishments operating under SIS, NELS, and NTIS. The lower level of automation and the slower line speeds require less complicated measures for maintaining and monitoring process control on an ongoing basis. Therefore, after considering this issue, FSIS has decided to revise the proposed rule to allow very small and very low volume establishments that operate under the modified Traditional Inspection System to collect and analyze samples for microbial organisms at the post-chill point in the process only. As stated in the preamble to the proposed rule, very low volume establishments would include those classified as very low volume establishments under the existing generic *E. coli* testing regulations (77 FR 4428). To make this clear, the Agency is establishing a codified definition for very low volume establishments that is based on the existing very low volume establishments definition under 9 CFR 381.94(2)(v), i.e., establishments that annually slaughter no more than 440,000 chickens, 60,000 turkeys, 60,000 ducks, 60,000 geese, 60,000 guineas, or 60,000 squabs.

Under this rule, if FSIS has evidence to indicate that a very small or very low volume establishment conducting sampling at a single point in the process is not maintaining process control, such as not meeting FSIS's pathogen performance standards, the establishment will need to conduct additional testing or implement additional measures to ensure that its process remains in control.

c. Sampling Frequency

Comment: Several consumer advocacy organizations requested that FSIS explain how it developed the estimates on how frequently establishments will conduct testing to monitor their process control procedures. The comments noted that FSIS estimated that large establishments will perform the prescribed tests 15 times a day, small establishments 7 times a day, and very small establishments 3 times a day. One of the consumer advocacy organizations asked that the Agency explain the justification for the presumed sample size. The comment stated that by providing clarification on the source of these estimates, stakeholders can better ascertain whether they represent a reasonable estimate of testing frequency.

Response: The estimates on how frequently establishments will conduct sampling under the proposed rule are from the proposed rule's Paperwork Reduction Act paperwork burden estimates. These estimates were based on the frequency with which establishments operating under a SIP waiver conduct sampling. Under SIP, FSIS grants establishments a waiver of regulations under the condition that the establishment collects and analyzes samples for microbial organisms and shares the results with FSIS. As discussed below, FSIS is revising the proposed rule to prescribe a minimum frequency with which all establishments that slaughter poultry will need to conduct testing for microbial organism to monitor their process control procedures. Thus, FSIS has updated its paperwork burden estimates to reflect these changes.

Comment: Several consumer advocacy organizations and a member of academia asserted that FSIS needs to prescribe the frequency with which establishments must conduct sampling. One consumer advocacy organization stated that establishments need to collect samples at a specified frequency to evaluate whether any changes implemented by the establishment as a result of the proposed rule have positive or negative effects on rates of contamination. A consumer advocacy organization argued that FSIS needs to require a specific testing frequency per line and per shift to ensure that establishments achieve sufficient testing for pathogens. Another consumer advocacy organization suggested that FSIS require testing frequency per production day based on production volume. One comment expressed concern that poultry establishments have little incentive to incur costs to test beyond a very minimum frequency that may not be sufficient to monitor process control.

One trade association stated that FSIS should not remove the generic *E. coli*

testing regulation because it includes 9 CFR 381.94(a)(2)(v), which establishes definitions for very low volume establishments and provides sampling frequencies for very low volume establishments. This trade association asserted that specific testing frequencies for very low volume establishments should remain in the regulations.

Several trade associations stated that FSIS should not prescribe how often establishments must collect samples for testing. These trade associations supported the flexibility in sampling frequency because they believed sampling should be specific to an individual establishment's programs and processes.

Response: After considering the comments from the consumer advocacy organizations, FSIS believes that there is merit to requiring a minimum frequency of testing to ensure that establishments will be able to detect changes in processing or inconsistencies that may occur. FSIS expects that for their sampling plans, most establishments will adopt sampling frequencies that are similar to what is required under the existing generic *E. coli* testing regulations because sampling less frequently may affect the establishment's ability to detect problems with their process controls in a timely manner. However, as indicated by some of the comments, there is some concern that some establishments may attempt to reduce sampling to a very low frequency. While a very low testing frequency may be sufficient if the establishment is able to consistently maintain process control, it could also decrease the establishment's ability to detect changes or inconsistencies in processing that may occur.

Therefore, to address concerns about minimal sampling frequencies expressed by the consumer advocacy organizations, FSIS is revising the proposed sampling requirements to prescribe a minimum frequency with which establishments will be required to collect a pair of samples, one at pre-chill and one at post-chill, or, for very small and very low volume establishments that operate under Traditional Inspection, a single post-chill sample. Under this final rule, establishments will be required to collect samples at a frequency of once per 22,000 processed carcasses for chickens and once per 3,000 processed carcasses for turkeys, ducks, geese, guineas, and squabs. These frequencies reflect the frequencies prescribed under the existing regulations for generic *E. coli* testing.

Under the existing generic *E. coli* testing regulations, very low volume establishments that slaughter turkeys, ducks, geese, guineas, squabs, or ratites in the largest number must collect at least one sample during each week of operation each year but may stop sampling after 13 samples have been collected (9 CFR 381.94(a)(2)(v)). This final rule includes a similar provision that will apply to very low volume establishments to minimize the additional sampling costs to these establishments, many of which are also small or very small establishments. Thus, under this rule, if, after consecutively collecting 13 weekly samples, a very low volume establishment demonstrates that it is effectively maintaining process control, FSIS will allow it to modify its sampling plan. For example, after collecting 13 weekly samples, a very low volume establishment could collect samples less frequently, such as once a month, and use visual observation and documentation at control points to monitor process control. FSIS will provide guidance to very low volume establishments in developing alternative sampling plans and establish criteria, e.g., lower limit (m) and upper limit (M) values for test results, that will allow them to effectively monitor process control.

Because ratites were not subject to the proposed rule, establishments that slaughter ratites will continue to follow the generic *E. coli* testing regulations in 9 CFR 381.94(a). These regulations have been revised to remove all other poultry classes.

As noted in the preamble to the proposed rule, the frequency with which establishments will need to conduct testing to monitor for process control will depend on a number of factors, including their production volume, the source of their flocks, their slaughter and dressing processes, and the consistency of their microbial test results (77 FR 4428). Therefore, the prescribed minimum sampling frequencies may not necessarily be appropriate for every establishment to monitor process control. Some establishment may need to sample more frequently to effectively monitor process control. Because the testing frequency will be an integral part of an establishment's HACCP system verification procedures, establishments will need to collect and maintain data to demonstrate that their testing frequency is adequate to verify the effectiveness of their process control procedures.

Comment: Several trade associations stated that the source of flocks should not be a factor in determining the frequency of establishment testing. According to some of the comments, interventions at establishments ensure that only unadulterated product leaves the establishment, no matter where poultry is raised. One trade association added that the best methods of controlling *Salmonella* occur in the establishments, not on the farm. This trade association stated that the decontamination process during slaughter has allowed the industry to reduce its carcass swab incidence of *Salmonella* to less than 1.75 percent. Additionally, this comment noted that during a September 23, 2011, meeting, USDA's NACMPI rejected efforts to tie flock source to process control because adequate science doesn't currently exist to support such a relationship.

Additionally, one trade association believed that production volume and slaughter and dressing processes should not be factors in determining sampling frequencies. This comment argued that the manner with which establishments demonstrate process control does not vary with the operations being conducted. Several trade associations stated that sampling frequency depends on an establishment's total food safety system, not variables like volume or flock source that are already accounted for.

Response: The proposed rule did not prescribe specific factors that establishments would need to consider when developing their microbiological sampling plans. However, because establishments are required to incorporate their sampling plans into their HACCP systems, they will be required to provide scientific or technical documentation to support the judgments made in designing their sampling plans. In the preamble to the proposed rule, the Agency stated that the frequency with which establishments will need to collect samples for analysis will depend on a number of factors, including, among other factors, their production volume, and source of their flocks. As noted above, even though the Agency is establishing a minimum testing frequency for establishments to monitor process control, establishments will be required to consider any factors that are relevant to their production process to determine the sampling frequency that will be effective for their operation to meet regulatory requirements.

FSIS is not requiring that establishments address specific factors, such as flock source, to determine sampling frequency. However, because establishments are required to incorporate their sampling programs into their HACCP systems, they will need to provide scientific support for

the decisions made in determining the sampling frequency.

d. Indicator Organisms and Baseline

Comment: Several consumer advocacy organizations argued that instead of allowing establishments to choose which organism to test for, FSIS should require that establishments test for *Salmonella* and *Campylobacter.* The comments said that these are the two pathogens of greatest public health concern in the products affected by the proposed rule and together account for nearly half of all poultry-related outbreaks in the United States. One comment added that establishments could still test for additional pathogens or indicator organisms as warranted. One member of academia suggested that rapid testing be used for *Salmonella* at pre- and post-chill testing locations, rather than an indicator organism such as generic *E. coli,* because *Salmonella* is the leading cause of bacterial foodborne disease.

Response: As discussed above, the purpose of the proposed new testing requirements is to ensure that establishments are effectively monitoring process control on an ongoing basis. FSIS has determined that this can be achieved by sampling pre- and post-chill for enteric pathogens, such as *Salmonella* and *Campylobacter,* or for an appropriate indicator organism. The comments did not include any data to cause FSIS to question this conclusion.

As discussed above, to effectively monitor their process control procedures, establishments will need to conduct testing at a frequency that is sufficient to detect a loss of process control soon after it occurs so that they can take the necessary corrective actions to prevent further product contamination. Because the percentage of carcasses that are expected to show positive test results for *Salmonella* and *Campylobacter* is small when compared with the percentage of carcasses that are expected to show positive results for indicator organisms, establishments would need to analyze a large number of samples for *Salmonella* or *Campylobacter* to detect a loss of control, much larger than when using an appropriate indicator organism, everything else being equal. The cost to analyze samples for *Salmonella* and *Campylobacter* is much greater than that to analyze for indicator organisms.[15] Thus, the costs to effectively monitor a process using *Salmonella* and *Campylobacter* measurements would likely be considerably more expensive than the costs to monitor the process using measurements of levels of indicator organisms. FSIS has concluded that such costs would not be justifiable when measurements of indicator organisms are as effective for monitoring process control as measurements of pathogens.[16] [17] [18]

Comment: Several consumer advocacy organizations and a member of academia recommended that FSIS require that establishments conduct testing for a specific period of time that can be statistically justified to provide baseline testing data before the Agency moves forward with any changes to its poultry slaughter inspection program. One of the comments added that the baseline testing data will allow FSIS and the establishment to determine how changes to the poultry slaughter system impact pathogen rates at the establishment. Another comment stated that FSIS should require the continuous generation of baseline data for a period of at least 90 days prior to implementing other substantive changes to the poultry inspection system.

Response: FSIS is requiring that establishments collect and analyze samples for microbial organisms to monitor the effectiveness of their process control procedures. As noted above, establishments will be responsible for determining which microbiological organisms will best help them to monitor the effectiveness of their process controls. The establishment's baseline for its sampling plan will depend on the organism that it selects. Establishments that choose to collect and analyze samples for indicator microbial organisms rather than pathogens, such as *Salmonella* and *Campylobacter,* will be responsible for developing their own baseline for these organisms because the Agency is not establishing performance standards for indicator organisms. Of course, some establishments may already have data that they can use to develop a baseline. For those that do not, the length of time an establishment will need to develop a baseline will depend on several factors, including the volume of birds it slaughters, the number of lines, and the number of sources from which the establishment receives birds.

Establishments must have developed their sampling plans before the effective dates established in this final rule. The sampling plan must be made part of the establishment's HACCP system, and as such, the establishment is required to provide scientific or technical documentation to support the effectiveness of its sampling plan, which may include the development of an appropriate baseline to allow them to detect changes or inconsistencies in microbial levels that may occur during the slaughter and evisceration process.

3. Rescind Testing for Generic E. coli for Establishments That Slaughter Poultry Other Than Ratites

In the proposed rule, FSIS explained that it was proposing to rescind the generic *E. coli* testing requirements in 9 CFR 381.94 and replace them with a new testing requirement that allow establishments to sample for other, potentially more useful indicator organisms. The new testing requirements were discussed above. FSIS received some comments on this aspect of the proposed rule (77 FR 4428).

Comment: Comments from a consumer advocacy organization and a member of academia said FSIS should not rescind the existing regulations that prescribe testing for generic *E. coli.* A consumer advocacy organization said that rescinding this regulation will remove performance standards as a regulatory matter, expose consumers to greater risks from contaminated poultry, and reduce options for enforcement. One member of academia also stated that given that USDA studies have shown that *E. coli* can serve as a reservoir or source of transferable genetic determinants for antimicrobial resistance in foodborne pathogens, testing for generic *E. coli* should not be rescinded.

A consumer advocacy organization presented various arguments that, according to the organization, show that FSIS did not adequately support its decision to rescind the generic *E. coli* sampling requirements. First the comment asserted that FSIS inappropriately relied on a 2004 report of the National Advisory Committee on Microbiological Criteria for Foods (NACMCF) as a basis for rescinding the rule. Second, the comment argued that

[15] Laboratory cost for analyzing for *Salmonella* and *Campylobacter* could exceed $300 per sample though we expect costs would vary, and could be less, depending upon number of tests and laboratory availability. The costs of analyzing these pathogens we expect to be more than 10-fold greater than the costs for analyzing for indicator organisms.

[16] Altekruse, S.F., Berrang, M.E., Marks, H., Patel, B., Shaw, W.K., Sani, P., Bennett, P.A., and Baily, J.S., 2009, Enumeration of Escherichia coli Cells on Chicken Carcasses as a Potential Measure of Microbial Process Control in a Random Selection of Slaughter Establishments in the United States, *Applied and Environmental Microbiology,* 75(9): 3522–3527.

[17] Berrang, M.E., Bailey, J.S., Altekruse, S.F., and Shaw, W.K., 2008, *J. Appl. Poultry Res* 17: 354–360.

[18] Habib, I., De Zutter, L, Van Huffel, X., Geeraerd, A.H., and Uyttendaele, M., 2012, Potential of Escherichia coli as a Surrogate Indicator for Postchill Broilers with High Campylobacter Counts, *Food Control* 25: 96–100.

the studies that FSIS referenced that indicate that the presence of generic *E. coli* on young chicken carcasses may be a result of infectious process or air saculitis, and do not provide a basis for rescinding the generic *E. coli* testing regulations. According to the comment, regardless of whether the source of contamination is fecal or an infected carcass, testing and performance standards are still relevant because detecting generic *E. coli* would be evidence of problems in the establishment's process controls.

Response: As discussed in the preamble to the proposed rule, the Agency's experience with the generic *E. coli* testing regulations has led the Agency to conclude that such testing may not be the most effective way for establishments to monitor the effectiveness of their process control procedures.

The existing generic *E. coli* performance criteria represent the distribution of measured generic *E. coli* results observed in FSIS's 1994 baseline survey of young chicken slaughter establishments. Since FSIS implemented the generic *E. coli* testing requirements, establishments have made changes to their processes that have led to further reductions in the detectable levels of generic *E. coli* on carcasses post-chill. The most recent young chicken baseline conducted from 2007–2008 shows that the levels of detectable generic *E. coli* on post-chill carcasses are well below the performance criteria in the existing regulations and that over 60 percent of the sample measurements had non-detectable levels of generic *E. coli.*

Data from FSIS's 2007–2008 Young Chicken Baseline survey show that there were 12 establishments from which 10 or more samples were analyzed during the survey and none with detectable levels of generic *E. coli.* FSIS analyzed 22 samples each in 2 of these establishments. All 44 samples had detectable Aerobic Plate Count (APC) measurements even though none had detectable generic *E. coli* measurements. Thus, for these establishments, it might be more efficient to use APC counts instead of generic *E. coli* counts to monitor for process control because a higher percentage of samples would be expected to have measurable APC levels even when generic *E. coli* levels are not detected.

In addition, FSIS used the most recent baseline survey of young chicken establishments to perform correlation analyses of pathogen presence and measured levels of indicator organisms on carcasses. The results indicate that measured APC levels at re-hang were more highly correlated with *Salmonella* presence at re-hang than were measured *E. coli* levels. Such results suggest that APC measurements might provide a better measure of process control.

Although the Agency has determined that the existing post-chill testing for generic *E. coli* may not be the most effective means for monitoring process control, establishments may sample for generic *E. coli* or any other indicator organism pre- and post-chill, or for very small and very low volume establishments operating under Traditional Inspection, post-chill only, if the establishment provides scientific or technical documentation to demonstrate that the use of a specific indicator organism is appropriate for monitoring the establishment's process control procedures.

4. Rescind Codified Salmonella Performance Standards

In the preamble to the proposed rule, FSIS explained that because it can effectively address pathogen reduction in poultry establishments through its new *Salmonella* and *Campylobacter* performance standards and the SIP, the Agency was proposing to rescind the codified *Salmonella* pathogen reduction performance standards in 9 CFR 381.94(b). The Agency also explained that, since 2001, after a ruling by the U.S. Court of Appeals for the Fifth Circuit in *Supreme Beef Processors, Inc.* v. *USDA,* the Agency's ability to directly enforce the codified *Salmonella* pathogen reduction performance standards has been limited. FSIS received several comments from consumer advocacy organizations on its decision to rescind the codified standards.

Comment: A consumer advocacy organization said that in developing the proposed rule, FSIS should have considered the alternative of retaining both the generic *E. coli* testing requirements and the codified *Salmonella* performance standards as a way to ensure that an establishment's processes are under control and its products meet a minimum level of sanitation. The comment said that FSIS should retain its ability to monitor end-products for fecal and microbial contamination through mandated testing and performance standards. The comment asserted that in rescinding the *E. coli* and *Salmonella* testing provisions and their associated performance standards, FSIS is removing a useful verification check.

Response: FSIS disagrees with the comments. The Agency does not believe that it needs to retain the existing codified generic *E. coli* performance criteria and the existing codified *Salmonella* performance standards to verify that establishments' processes are in control and that the products meet a minimum level of sanitation. The reasons the Agency is rescinding the generic *E. coli* testing requirements were discussed above. The new testing requirements will give establishments the flexibility to sample for other potentially more useful indicator organisms to monitor for process control.

As noted above, the Agency is rescinding the codified Salmonella performance standards because it can effectively address pathogen reduction in poultry establishments through its new *Salmonella* and *Campylobacter* performance standards and the SIP. FSIS will continue to collect verification samples and analyze them for *Salmonella* and *Campylobacter* and compare the results to the Agency's most recent performance standards for these pathogens. The Agency will also continue to post the names of establishments that fail to meet the new performance standards on the Agency's Web site and will continue to use an establishment's failures to meet the standard as a basis for conducting an in-depth evaluation of the establishment's food safety system.

Comment: Some comments disagreed with the Agency's proposal to rescind the codified *Salmonella* performance standards. The comments said that under the existing regulations, an establishment's consistent failure to comply with the *Salmonella* performance standards or take the corrective actions necessary to comply with the standards constitutes a failure to maintain sanitary conditions and to maintain an adequate HACCP plan. The comments said that the codified *Salmonella* performance standard is important because it informs poultry establishments of their responsibilities to control their processes and the consequences of repeated failures to do so.

The comments stated that rather than removing the codified performance standards, the Agency should instead focus on updating them. The comments noted that the Agency has developed new performance standards for *Salmonella* and *Campylobacter* in young chicken and turkey slaughter establishments. The comments suggested that the Agency replace the existing codified *Salmonella* performance standards with the new *Salmonella* and *Campylobacter* performance standards.

Response: One difficulty with establishing codified pathogen

reduction performance standards, as suggested by the comments, is that, although these standards may represent an appropriate level of pathogen reduction at the time they were established, over time, as establishments make adjustments to their processes to meet these standards, the standards may no longer be an effective means for accomplishing pathogen reduction. The Agency's codified *Salmonella* performance standards demonstrate the need for flexibility to update performance standards based on changes in baseline levels for the pathogens of concern.

As discussed in the preamble to the proposed rule, since 2001, after the ruling in *Supreme Beef Processors, Inc.* v. *USDA,* the Agency's ability to directly enforce the codified *Salmonella* pathogen reduction performance standards has been limited (77 FR 4412). Therefore, after the *Supreme Beef* ruling, the Agency began using *Salmonella* failures as a basis to conduct an in-depth evaluation of an establishment's food safety system. In 2006, after an intensive review of the results of several years of *Salmonella* testing that showed a trend of increasing prevalence of *Salmonella* in young chickens, FSIS initiated policies to reduce *Salmonella.* One of those initiatives was to create three establishment performance categories for *Salmonella* based on the codified performance standards. The new performance Category 1 represented the best performing establishments and was defined as not more than half the regulatory standard. Category 2 was set at more than half, but, did not exceeding the regulatory standard. Category 3 establishments exceeded the standard, and represented the worse performing establishments. FSIS began publishing the names of young chicken establishments in Category 2 and 3 in March 2008, and has continued to publish the names of establishments in Category 3 on or about the 15th of each month.

After it established the new *Salmonella* performance categories, FSIS completed new young chicken and turkey baselines in 2008 and 2009 respectively. In May 2010, the Agency announced that it had developed tightened performance standards for *Salmonella* and a new performance standard for *Campylobacter* for chilled carcasses in young chicken and turkey slaughter establishments based on the new baseline results. In March 2011, the Agency announced that it would implement the new standards starting in July 2011 and that when two sets per establishment are completed, the Agency will post the names of young chicken and turkey establishments that fail the new *Salmonella* standards, i.e., Category 3, on the Agency's Web site. The new, more stringent standards are used in place of the codified *Salmonella* performance standards.

H. Elimination of Time/Temperature Chilling Requirements

In the January 2012 proposed rule, FSIS proposed to replace the regulations that prescribe the specific time and temperature parameters needed to chill RTC poultry with a requirement that poultry slaughter establishments develop written procedures, and implement and maintain these procedures to control the levels and prevent the multiplication of spoilage organisms and pathogenic bacteria in the product after evisceration (77 FR 4430). Establishments would be required to incorporate these procedures into their HACCP plans, or sanitation SOPs, or other prerequisite programs. The Agency also proposed to define ''air chilling'' as the method of chilling raw poultry carcasses and parts exclusively with air. In the preamble to the proposal, the Agency explained that under the proposed definition, an antimicrobial intervention that is applied with water may be used for a short duration if its use does not result in any pick-up of water or moisture, and if it does not assist the chilling process by lowering the product temperature. FSIS received comments on the proposed revision to its poultry chilling requirements as well as on the proposed definition of air chilling.

Comment: One comment supported the Agency's decision to permit establishments to develop and validate their own chilling processes while still retaining the current chilling processes as a validated safe harbor. The comment said that this approach was consistent with the Agency's policies favoring a scientifically based approach to food safety. The comment suggested that FSIS provide guidance on how establishments should validate new chilling processes to facilitate compliance and encourage innovative chilling processes. The comment also said that the Agency should also reiterate the safe harbor provisions in the final rule.

Response: As discussed in the proposed rule, establishments will be required to incorporate their procedures for chilling into their HACCP systems. Thus, establishments will need to validate their chilling procedures as prescribed in the HACCP validation regulations (9 CFR 417.4(a)). Under these regulations, establishments are required to: (1) Document the scientific or technical support for the judgments made in their chilling process and (2) repeatedly test the adequacy of their chilling process controls to demonstrate that their chilling process will perform as expected. As stated in the preamble to the proposed rule, FSIS will consider the existing time and temperature chilling regulations as safe harbors and will incorporate these requirements into compliance guidance on meeting the new chilling requirements.

Comment: Two labor unions commented that it is unsound for the Agency to eliminate time and temperature chilling requirements and replace them with a performance-based approach that permits establishments to develop their own validated chilling procedures. One of the labor unions said that because the proposed rule will allow poultry slaughter establishments to select any chilling technique they please, small and medium establishments may eviscerate 175 bpm now and worry about adequate chilling later. According to the comment, the proposal to eliminate the time and temperature requirements is an attempt by the Agency to accommodate those small and medium-sized slaughter establishments that cannot safely increase production to 175 bpm under the NPIS but that have no choice but to adopt the new system.

Response: The comments that suggest that the prescribed new chilling requirements will allow poultry slaughter establishments to increase line speeds before they have developed effective chilling procedures is incorrect. Under this final rule, establishments are required to develop, implement, and maintain validated chilling procedures that will effectively control the levels and prevent the multiplication of spoilage organisms and pathogenic bacteria before they may operate at any given line speed. In addition, the maximum line speed under the NPIS is 140 bpm and not 175 bpm, as was proposed.

FSIS also disagrees with the comment that the decision to amend the poultry chilling requirements is not a sound proposal. To the contrary, and as noted in the preamble to the proposal, FSIS has granted SIP waivers from the time and temperature regulations to six poultry slaughter establishments. The data collected from these establishments demonstrate that alternative chilling procedures can be as effective as the prescribed time and temperature requirements in controlling the levels and preventing the multiplication of spoilage organisms and pathogenic bacteria in the product after

evisceration. Under this rule, establishments will be required to incorporate procedures for chilling into their validated HACCP systems. These written procedures will include the conditions of use affecting carcass chilling and microbial multiplication identified by the establishment.

Comment: A trade association recommended that FSIS clarify the definition of air chilled poultry to accommodate reasonable applications of antimicrobials using small amounts of water. The comment said that these applications are not designed to affect cooling or moisture pick-up, but that a strict technical reading of the proposed rule might be interpreted to prohibit their use. The comment suggested that the Agency revise the air chilling definition to permit antimicrobial applications applied with water if the water is used for a short duration and does not materially contribute to the chilling process or result in a material amount of water pick-up. According to the comment, this change would align the proposal with industry practice currently permitted by the Agency.

A company that has created a combination air chilling system that begins with antimicrobial dips of birds at the end of the slaughter process requested that the Agency revise the proposed definitions of air chilling to make clear that poultry chilled using this process qualify as ''air chilled.''

The comment explained that under its chilling system, poultry carcasses are subject to an antimicrobial dip that lasts for 20–90 seconds at the end of the slaughter process and then are air chilled without any water or sprays. According to the company, the combination system results in no moisture pick-up when the entire process is viewed from start to finish, but there is an unavoidable reduction of product temperature because of the antimicrobial dip tanks prior to the start of air chilling. The company requested that FSIS permit the use of an ''air chilled'' claim for a process that begins with antimicrobial dips of limited duration immediately prior to air chilling, regardless of a reduction in product temperature because of the antimicrobial treatment, provided there is no pick-up of moisture for the entire process.

According to the company, antimicrobials are generally more effective if applied when the carcasses are warm, i.e., directly after evisceration and before chilling, and its combination system has been shown to reduce *Salmonella* and *Campylobacter.* The company argued that allowing products chilled with this combination system to bear an ''air chilled'' label will provide marketing benefits and encourage establishments to adopt this food safety innovation.

The company also stated that its combination system has been recognized as an air chill system by the European Union. According to the comment, if FSIS were to adopt the proposed ''air chilled'' definition, poultry chilled using the combination system would be allowed to be labeled as ''air chilled'' in the European Union but not in the United States because the system reduces the product temperature. The company stated the FSIS should allow establishments to choose when chilling begins, so that establishments could treat the antimicrobial dip tanks in a combination system as an intervention in the slaughter process, so that the chilling would begin after the intervention.

Alternatively, the company requested that FSIS revise proposed 9 CFR 381.66(e) to read ''Air chilling. Air chilling is the method of chilling raw poultry carcasses and parts exclusively with air. No water, including mists or sprays, may be used to help chill the product. However, an antimicrobial intervention with water may be used provided its use does not result in any pick-up of water or moisture and the majority of the chilling time consists of chilling exclusively with air.''

Response: After carefully considering these comments, FSIS believes they have merit. Therefore, FSIS is revising the proposed definition of air chilling to read as follows:

''Air chilling is the method of chilling raw poultry carcasses and parts predominantly with air. An antimicrobial intervention may be applied with water at the beginning of the chilling process if its use does not result in any net pick-up of water or moisture during the chilling process. The initial antimicrobial intervention may result in some temperature reduction of the product only if the majority of temperature removal is accomplished exclusively by chilled air.''

FSIS believes the revised definition will allow change and innovation by industry, while still meeting the essential criteria for approval of the ''air-chilled'' labeling claim, i.e., that the majority of chilling is accomplished with air and the process does not result in any pick-up of water or moisture. By allowing an antimicrobial intervention to reduce to a non-material extent the product temperature, FSIS will provide more opportunities for industry to apply antimicrobial interventions without delaying the start of the chilling process. This may well provide industry with more options to develop and apply innovative antimicrobial interventions to improve the microbiological characteristics of poultry products by reducing the numbers of foodborne pathogens and spoilage organisms. By applying antimicrobial interventions at a temperature that results in partial chilling of the poultry products, industry may be able to make those interventions more effective, while also decreasing the overall time to chill the product.

FSIS has determined that this change in the definition of ''air chilling'' will not result in mislabeling or the misleading of consumers because it preserves the two essential characteristics that FSIS considers when reviewing ''air chilled'' labeling claims: (1) That the product does not gain moisture from the chilling process and (2) that the majority of the temperature reduction is done by chilled air.

I. Online Reprocessing

In the January 2012 proposed rule, FSIS proposed to permit poultry slaughter establishments to use approved online reprocessing antimicrobial systems and offline reprocessing antimicrobial agents including chlorinated water containing 20 ppm to 50 ppm available chlorine or other antimicrobial agents that have been approved as safe and suitable for reprocessing poultry (77 FR 4432). The Agency proposed to require that establishments address the use of online or offline reprocessing in their HACCP plans, or sanitation SOPs, or other prerequisite programs. FSIS received a few comments on these proposed new requirements.

Comment: Two trade associations expressed support for amending the regulations to permit the use of safe and suitable substances for both online and offline reprocessing, thereby eliminating the need for individualized waivers for the use of these technologies.

One trade association recommended that the Agency eliminate the distinction between online and offline reprocessing and instead require that establishments justify the appropriate use of safe and suitable antimicrobials in their HACCP plans. According to the comment, establishments already must validate their processes, including the antimicrobials used in reprocessing. The comment asserted that a formalistic FSIS distinction serves no meaningful purpose and may confuse issues and deter innovation. The comment said that limiting uses of certain antimicrobials to online or offline

reprocessing overlooks the fact that all poultry must meet the same standards. The comment said that relying on individual establishment validations would reflect a more scientifically sound approach. The comment said if FSIS has concerns about the appropriateness of particular antimicrobials for certain applications, the Agency can limit the conditions of use for the antimicrobial when listing the antimicrobial as safe and suitable for use in poultry products.

Response: FSIS is maintaining the distinction between online and offline reprocessing in this final rule because there are differences between the two processes that require separate regulatory requirements.

Establishments that use offline reprocessing remove the carcasses accidentally contaminated with digestive tract contents from the main slaughter line and reprocess them at a designated offline station in any manner that will remove the contamination, such as vacuuming, washing, and trimming, singly or in combination. Establishments that reprocess carcasses online are permitted to leave the contaminated carcasses on the main slaughter line. The carcasses then proceed to an online reprocessing station where the contamination is removed by an approved antimicrobial agent that is applied to all carcasses on the line. The provisions in this final rule that permit poultry slaughter establishment to use approved online reprocessing antimicrobial systems and offline reprocessing antimicrobial agents do not affect the separate procedures used for offline or online reprocessing. Thus, this final rule maintains the distinction between the two processes.

Comment: A member of academia commented that issues related to online reprocessing are complex and suggested that instead of addressing online reprocessing provisions in this rulemaking, FSIS should provide for online reprocessing in a separate rulemaking. According to the comment, two problems arise from online reprocessing. The comment said that first, carcasses will be allowed to remain on the line despite visible fecal contamination, and second, that the use of online reprocessing antimicrobial agents requires that all carcasses be treated with unspecified antimicrobial agents whether contaminated or not. The comment asserted that the data on online reprocessing that FSIS described in the preamble to the proposed rule do not provide sufficient information to determine whether the process can meet sanitary standards. The comment said that, before FSIS finalizes the rule, it needs to ensure that establishments conduct more pilot testing under the supervision of disinterested parties.

Response: FSIS disagrees with the commenter. With respect to the comment that all carcasses will be treated with ''unspecified antimicrobial agents,'' as noted in the preamble to the proposed rule, before a new substance can be used as an online reprocessing agent, the Food and Drug Administration (FDA) will determine the safety of the substance for use in online reprocessing and FSIS will determine its suitability (77 FR 4433). Establishments opting to use online reprocessing will be permitted to use online reprocessing systems and antimicrobial agents that have been approved by FSIS under the specific conditions of use for which they have been approved. FSIS will list all antimicrobial agents that have been approved for use in online reprocessing, together with the specific parameters of use under which the antimicrobial agents have been approved, in FSIS Directive 7120.1: ''*Safe and Suitable Ingredients Used in the Production of Meat, Poultry, and Egg Products.*''

FSIS also disagrees with the comment that the data on online reprocessing do not provide sufficient information to determine whether the process can meet sanitary standards. As discussed in the preamble to the proposed rule, when FSIS published the proposed rule, 144 poultry slaughter establishments were operating under waivers that allowed them to use online systems to reprocess carcasses accidentally contaminated with digestive tract contents (77 FR 4432). The data generated from the in-plant trials conducted under these waivers show that various online antimicrobial treatments have differing but equally effective results with respect to pathogen reduction. Thus, FSIS disagrees that it needs to ensure that establishments conduct more pilot testing on online reprocessing before the Agency finalizes the proposed rule. There are extensive data available to show that the use online reprocessing systems is an effective method for removing digestive tract contents from accidentally contaminated carcasses and that the process meets sanitary standards.

J. Animal Welfare Considerations

FSIS received thousands of comments from private citizens and comment letters from animal welfare advocacy organizations that expressed concerns about the potential impact that the NPIS may have on the welfare of the live birds at slaughter. These comments raised several issues related to the handling of live birds under the NPIS.

1. Welfare of Live Birds

Comment: Several animal welfare organizations stated that FSIS did not adequately consider the impact that the NPIS will have on animal welfare. The comments expressed concern that the NPIS would negatively impact the welfare of birds. Numerous individuals and several animal welfare organizations expressed their view that the NPIS is inconsistent with FSIS's policy that ''considers humane methods of handling animals and humane slaughter operations a high priority,'' and it would undermine the Agency's food safety and humane slaughter policies.

Response: FSIS regulations require that establishments slaughter poultry in accordance with good commercial practices in a manner that results in thorough bleeding of the poultry carcasses and that ensures that breathing has stopped before scalding so that the birds do not drown (9 CFR 381.65(b)). In September 2005, the Agency published a **Federal Register** notice to explain that poultry products are more likely to be adulterated if, among other circumstances, they are produced from birds that have not been treated humanely because such birds are more likely to be bruised or to die other than by slaughter (70 FR 56624). The PPIA (21 U.S.C. 453(g)(5)), as well as the regulations (9 CFR 381.90), provide that carcasses of poultry showing evidence of having died from causes other than slaughter are considered adulterated and condemned. The Agency did not propose changes to these regulations and this final rule maintains these requirements without change. Establishments operating under the NPIS will absolutely be required to comply with these requirements. FSIS does not have a basis to believe the NPIS will negatively impact bird welfare and does not expect the new system to do so. Nonetheless, FSIS does consider humane handling and good commercial practices to be a high priority and will continue to be diligent in enforcing these requirements.

2. Line Speed and Animal Welfare

Comment: Approximately 1,000 individuals and several animal welfare organizations said that the proposed increase in maximum slaughter line speeds under the proposed rule would adversely impact humane handling of poultry. Many examples were suggested by individuals and animal welfare organizations of ways in which these adverse impacts could potentially occur.

These encompass concerns about potential workers frustrations over faster line speed and taking these frustrations out on the birds, potential increased injuries that may occur from shackling birds at faster line speeds, potential injuries from birds vigorously flapping their wings while in shackles, and the potential for ineffective stunning and throat cutting at faster line speeds.

Response: As discussed above, under this final rule, the maximum line speed permitted under the NPIS will be 140 bpm for young chickens rather than 175 bpm, as was proposed. Thus, the maximum line speed for the NPIS will be no faster than the maximum line speed permitted under the existing inspection systems under SIS.

As the Agency explained in the previous response, under the NPIS, establishments are now and will continue to be required to slaughter poultry in accordance with good commercial practices, in a manner that results in thorough bleeding of the poultry carcasses and ensures that breathing has stopped before scalding (9 CFR 381.65(b)). FSIS also considers poultry carcasses showing evidence of having died from causes other than slaughter to be adulterated and as such must be condemned (21 U.S.C. 453(g)(5) and 9 CFR 381.90). For example, poultry that are still breathing on entering the scalder die from drowning not from slaughter and are, therefore, considered adulterated and unfit for human food. Establishments operating under the NPIS will be subject to these requirements regardless of an establishment's specific line speed. If an establishment fails to meet these requirements, it will have to adjust its operations to ensure that is does meet these requirements. For example, some establishments may reduce line speeds, others may station additional employees in the receiving-to-pre-scald areas to ensure compliance.

Further, FSIS believes that employing humane methods of handling and slaughtering that are consistent with good commercial practices increases the likelihood of producing unadulterated product. In addition, if an establishment chooses the NPIS, FSIS inspection resources will be allocated to more offline food safety-related inspection activities, including verification tasks to systematically observe the conditions in the receiving to pre-scald area. When verifying good commercial practices in this area, offline inspection personnel observe whether establishment employees are mistreating birds or handling them in a way that will cause death, injury, prevent thorough bleeding, or result in excessive bruising. Offline inspection personnel also verify that the birds are stunned before being bled and determine whether there is other evidence that birds died other than by slaughter. If offline inspection personnel observe that the establishment is not following good commercial practices, they will take appropriate enforcement action and require corrective and remedial measures.

3. Animal Welfare and the Reduction in Number of Online FSIS Inspectors

Comment: Many individuals, several animal welfare organizations, and a consumer advocacy organization commented that a reduction in the number of online FSIS inspectors will harm animal welfare because FSIS inspectors will have less of an opportunity to observe and address inhumane handling. The comments expressed concern that current duties regarding handling and treatment of birds will not be adequately performed under the NPIS because there will be fewer FSIS inspectors. One consumer advocacy organization asserted that industry may also have less incentive to prevent injury to animals because of the Agency's new approach to OCP defects.

Response: Under this final rule, the NPIS will become one of the poultry inspection systems. FSIS disagrees that decreasing the number of online FSIS inspectors under the NPIS will harm animal welfare or impair its ability to carry out its human handling work effectively. As with HIMP, VIs under the NPIS will conduct food safety related inspection activities, including verification tasks to systematically observe the conditions in the receiving to pre-scald area, and will continuously monitor and evaluate establishment process control. For example, FSIS offline VIs will be verifying that establishments are following good commercial practices and will be checking for mistreatment or improper handling of birds. If inspection personnel observe that the establishment is not following good commercial practices, they will take appropriate enforcement action. If an establishment's line speed is seen as a cause of failure to follow good commercial practices, or if food safety related or non-food safety related conditions impair the online CI's ability to conduct the inspection of each carcass, the IIC will take appropriate remedial action and will be authorized to require that the establishment slow the line speed.

K. Environmental Impact

In the preamble to the proposed rule, FSIS explained that each USDA agency is required to comply with 7 CFR part 1b of the USDA regulations, which supplement the National Environmental Policy Act (NEPA) regulations (77 FR 4451). Under 7 CFR part 1b, actions of certain USDA agencies and agency units are categorically excluded from the preparation of an Environmental Assessment (EA) or Environmental Impact Statement (EIS) unless the agency head determines that an action may have a significant environmental effect. FSIS is among the agencies categorically excluded from the preparation of an EA or EIS. In the preamble to the proposed rule, FSIS explained that the Agency determined that the proposed rule was subject to the categorical exclusion from the preparation of an EA or EIS because the proposed rule will not have individual or cumulative effects on the human environment. FSIS received a few comments on the categorical exclusion.

Comment: Comments from an animal welfare advocacy organization and a consumer advocacy organization asserted that FSIS did not adequately analyze the environmental impacts of the proposed rule and therefore, did not meet the burden to show that the proposed rule is appropriately subject to the NEPA categorical exclusion. According to the comments, the proposed increase in line speeds that would have been permitted under the NPIS would allow establishments to slaughter more birds, thereby increasing demand on water supplies, truck traffic and carbon emissions from the transportation for each facility, and consumption of electricity to run each facility. The comments also asserted that an increase in birds slaughtered will result in an increase in condemned and inedible carcasses and parts that will need to be disposed of.

Response: As discussed above, under this final rule the maximum line speed permitted under the NPIS will be 140 bpm for young chickens rather than 175 bpm, as was proposed. Thus, the maximum line speed for the NPIS will be no faster than the maximum line speed permitted under the existing inspection systems under SIS. While the NPIS may give establishments the flexibility to slaughter and process birds more efficiently, consumer demand for poultry products will determine the number of birds slaughtered rather than line speeds. Thus, this final rule will not have a significant individual or cumulative effect on the human environment.

Comment: Some comments said that the provision in the proposed rule that permits establishments to use online and offline antimicrobial systems to reprocess contaminated carcasses will increase the discharge of antimicrobial chemicals into the water supply. The comments stated that one such substance, trisodium phosphate (TSP), can cause high levels of phosphorus in water and cause algae blooms. The comment noted that in the proposed rule, FSIS stated that only 5 to 7 of the 144 facilities with online reprocessing systems use TSP, and that the water is recycled and does not enter public water supplies. The comment said that the proposed rule did not account for whether there will be a foreseeable increase in facilities using online reprocessing systems that use TSP as a result of the proposed rule and what they will do with their TSP-laden water.

A comment from a member of academia agreed with FSIS's conclusion that the proposed rule was appropriately subject to a categorical exclusion from the preparation of an EA or EIS. The comment noted that although TSP may affect the aquatic environment, establishments that use this substance for online reprocessing are required to meet all local, State, and Federal environmental requirements. The comment said that water from slaughter facilities is treated appropriately and should continue to be treated appropriate within waste water treatment facilities.

Response: FSIS considered the potential environmental effects of the provision in this rule that will permit poultry slaughter establishments to use approved online reprocessing antimicrobial systems. As noted by the comment, TSP is used in a few online reprocessing antimicrobial systems. However, regardless of the substances that an establishment uses in its online reprocessing system, it is required to meet all local, State, and Federal environmental requirements. The waste water from all poultry establishments is handled routinely by existing water treatment systems or recycled as by-product without entering the establishment's water system, municipal water system, or ground water.

L. Economic Impact

1. General

Comment: One consumer advocacy organization stated that under the NPIS, FSIS would have authorized establishments operating under the NPIS to increase their maximum line speeds to allow establishments to operate more efficiently. The comment stated that this would allow large corporations that own multiple establishments to close some and still produce the same volume of product. The comment said that establishment closures will result in worker layoffs and community disruption, especially in locations where the establishment is the largest employer.

Response: As discussed above, under this final rule the maximum line speed permitted under the NPIS will be 140 bpm for young chickens rather than 175 bpm, as was proposed. Thus, the maximum line speed for the NPIS will be no faster than the maximum line speed permitted under the existing inspection systems under SIS.

Regardless of line speed, establishments may choose to implement the NPIS by adjusting shifts, reducing overtime, increasing output, reducing the number of lines, or consolidating establishments.

Comment: One trade association stated that the NPIS will create new jobs. According to the comment, even in the current economy, members of the trade association that participate in the HIMP pilot have hired additional in-plant personnel. The comment said that slaughter and processing establishments are only able to increase line speeds as staff levels permit, otherwise quality control could be adversely affected. The comment said that some establishments that have joined the HIMP pilot have expanded their facilities, hired new workers, and purchased additional equipment and technology, further fueling rural economies.

Response: While it is difficult to predict, FSIS agrees that establishments adopting the NPIS will likely initially expand their labor resources by employing about 0.8 staff-years of online sorters and carcass-inspection helpers that substitute for every 1.0 staff-year of FSIS online inspection program personnel (refer to number 1 under Summary of Estimated Costs and Cost Savings of the Rule).

Comment: A consumer advocacy organization questioned the incentive structures that would be in place with the NPIS. The comment questioned whether the NPIS would result in pathogen reduction and would lead to a reduction in health benefits. The comment questioned how the NPIS would limit the number of recalls.

Response: It is within the establishment's economic interest to take whatever actions are necessary to produce products that are safe, wholesome, and free from excessive trim and dressing defects. FSIS is responsible for ensuring that the establishment's process control procedures for preventing contamination by enteric pathogens and fecal material and for controlling OCP defects are effective. The NPIS gives establishments the flexibility to more efficiently utilize their resources to design systems that ensure their process control. As a result, the NPIS is expected to improve food safety and the effectiveness of inspection systems. FSIS estimates that this rule could reduce the number of human illnesses attributed to young chicken and turkey products by an average of about 3,980 *Salmonella* illnesses and about 840 *Campylobacter* illnesses.

The records that all establishments that slaughter poultry other than ratites would be required to keep under this rule, including the records of the establishment's testing results, will provide establishments and FSIS with ongoing information on the effectiveness of the establishment's process controls. This will allow FSIS and establishments to identify situations associated with an increase in microbial levels so that they can take the necessary corrective actions to prevent further potential contamination. The documentation that would result from this rule could also limit the scope of a product recall if the establishment maintains records sufficient to allow it to identify the point when a lack of process control could have resulted in product contamination.

2. Environmental Justice

Comment: Several comments from human and worker rights advocacy organizations and a public health professional trade association said that the Preliminary Regulatory Impact Analysis (PRIA) for the proposed rule failed to consider costs to workers' health and safety. The comments noted that FSIS estimated that the benefits of the proposed rule would amount to at least $258.9 million, but that the Agency did not present any data or estimates of the cost of injury, illness and disability of the proposed increased in maximum line speed that would have been permitted on the affected poultry plant workers. One comment stated that PRIA must also consider costs associated with increased worker's compensation, increased social service costs for State and local government, and reduced tax and Social Security payments.

Response: Under this final rule the maximum line speed permitted under the NPIS will be 140 bpm for young chickens rather than 175 bpm, as was proposed. Thus, the maximum line speed for the NPIS will be no faster than the maximum line speed permitted under the existing inspection systems

under SIS. The FRIA for this final rule has been updated to reflect this change from the proposal.

The effect of line speed on establishment employee safety is an important issue. As discussed above, the 2005 GAO Report, which linked production line speed to occupational injury and illness rates in the slaughter industry, called for independent research to better understand this relationship. As discussed earlier in this document, to obtain at least preliminary data on the matter, FSIS has asked NIOSH to evaluate the effects of increased line speeds on worker safety by collecting data from establishments that had been granted waivers from line speed restrictions under the SIP. NIOSH has completed such a study in one non-HIMP establishment. FSIS considers the NIOSH study to be an important first step in better assessing the impact of line speeds on the health and safety of workers in poultry slaughter and processing establishments.

3. Small Business Considerations

Comment: Some consumer advocacy organizations stated that the NPIS will lead to further consolidation in the poultry industry and that large producers will benefit at the expense of smaller processors. The comments said that the proposed increase in line speeds that would have been authorized under the proposed rule would cause small processors that typically do not run at line speeds of up to 175 birds to go out of business because the market will be flooded with poultry products from the larger processors. One trade association and a member of academia believed that the proposed rule adequately addressed considerations for small and very small establishments. According to the comments, the option to remain under Traditional Inspection will benefit establishments that do not have the resources to absorb the costs associated with facility and personnel changes. One comment stated that because establishments will have an opportunity to opt-in or opt-out of the NPIS, smaller businesses that have ''niche'' markets will not be adversely affected. The comments said that poultry sold in smaller markets has the appeal of being locally harvested and slaughtered under less commercial conditions. According to the comment, smaller establishments that have ''niche'' markets for their poultry product may see an increase in consumer purchase as a result of larger slaughter facilities choosing the new system.

Response: Under this final rule, establishments that do not choose to operate under the NPIS may continue to operate under their current inspection system, i.e., SIS, NELS, NTIS, or Traditional Inspection. FSIS expects little to no impact on small producers. Very small establishments that operate under Traditional Inspection generally slaughter birds that are sold in local, niche markets, where consumers have shown a willingness to pay more for a food product that is of local origin.[19] An ability to charge a higher price based on product differentiation enables the very small establishments to continue to compete in the market. The same pricing power based on product differentiation holds for establishments that slaughter birds other than young chickens and turkeys. Moreover, FSIS has revised the rule to reduce the sampling requirements for very low volume and very small establishments, which further reduces their cost to operate under the Traditional Inspection System, as modified by this final rule.

4. Implementation Costs

Comment: One trade association stated that the proposed rule did not address the significant costs of implementation, such as developing training materials and training employees, developing new recordkeeping based on the new system, and retraining or hiring new personnel to manage those recordkeeping systems. This trade association also noted that implementation of the NPIS will require significant capital investments. This trade association argued that the potential costs of implementation are exacerbated because it is unclear how the Agency plans to implement the NPIS and establishments cannot yet begin to make financial plans.

Response: FSIS carefully considered the costs associated with the final rule and included establishment costs associated with implementing the NPIS and complying with the mandatory recordkeeping and testing requirements of the rule in its FRIA. Annualized costs associated with the hiring of additional labor of sorters, both one-time and ongoing training as well as capital expenditures for the NPIS total $16.0 million (Table 7a). Annualized costs and cost savings associated with both additional microbial testing, the elimination of *E. coli* testing, recordkeeping and updating HACCP plans total $9.1 million (Table 7b).

[19] See Martinez, Steve et al., *Local Food Systems: Concepts, Impacts, and Issues,* ERR 97, U.S. Department of Agriculture, Economic Research Service, May 2010 for a discussion of consumers' willingness to pay a price premium (p. 29) for such characteristics as traceability (p. 26, p. 70) offered by local producers.

Comment: One trade association questioned the Agency's estimated industry savings in the PRIA. This trade association believed that some of the assumptions that the estimate are based on are unrealistic, such as, how many establishments will choose to or are capable of operating at higher line speeds. Additionally, this trade association stated that FSIS failed to take into account overall consumer demand when estimating industry-wide output. However, this trade association asserted that the benefits to food safety and the overall efficiencies to be gained are worth the cost and investment.

Response: Under this final rule the maximum line speed permitted under the NPIS will be 140 bpm for young chickens rather than 175 bpm, as was proposed. Thus, the maximum line speed for the NPIS will be no faster than the maximum line speed permitted under the existing inspection systems under SIS. The FRIA for this final rule has been updated to reflect this change from the proposal. In the proposed rule, FSIS took into account overall consumer demand by using demand elasticity to predict the increase in young chicken and turkey products produced as a result of an increase in line speed. However, because the maximum line speed under the NPIS will now be no faster than the maximum line speed authorized under the existing inspection systems, the impact of consumer demand on consumer and producer benefits has been removed.

IV. Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has been designated a ''significant'' regulatory action, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget, under Executive Order 12866.

Introduction

FSIS updated the PRIA to take into account recently published data and to reflect changes in the final rule in response to public comments. The changes to the costs and benefits

sections incorporate the following factors:

- Maximum line speeds permitted under the NPIS will be 140 bpm for young chickens.
- Very small HACCP size establishments are required to only test at one location instead of two and the sampling frequency for very low volume establishments remains unchanged from the existing regulation.
- Additional Labor Cost Due to Attestation of Work-Related Conditions is added to total cost.
- Changes to the rule's implementation plan, which are reflected in the Expected FSIS budgetary effects, establishment costs, and public health benefits.
- Changes to the costs of illness estimate, including changes to the average cost per illness and to the averted number of illnesses estimated in FSIS's risk assessment as a result of the latest peer review.
- Establishments are also now required to have a height-adjustable CI stand (the proposed rule did not have the height-adjustable requirement). FSIS has not included the price difference between height-adjustable and non height-adjustable inspection stands in the Final Regulatory Impact Analysis (FRIA) since the difference in cost is expected to be minimal.

Need for the Rule

The current systems of poultry inspection are rooted in principles of command and control regulation, where broad, rigid standards are applied across finished products and establishments. As food processing and food safety technology becomes more diverse, FSIS has worked to reform its regulations with a focus on HACCP-based process control, enabling establishments to have more flexibility in tailoring their food safety plans to their products and processes. The new system of poultry slaughter will help to further this effort. Based on our experience with the HIMP program, FSIS expects the new inspection system to improve food safety and the effectiveness of inspection systems, remove unnecessary regulatory obstacles to innovation, and make better use of the Agency's resources.

Furthermore, FSIS has determined that contamination of poultry carcasses and parts by fecal material and enteric pathogens (e.g., *Salmonella spp.* and *Campylobacter spp.*) are hazards reasonably likely to occur in poultry slaughter establishments unless addressed in a sanitation SOP or other prerequisite program.

Summary of the Rule's Provisions

A. Elements of the new system for the slaughter of young chickens and turkeys:

(1) Requirements by establishment personnel to conduct carcass sorting activities before FSIS inspection program personnel (IPP) conduct online carcass inspection so that only carcasses that the establishment deems likely to pass inspection are presented to the FSIS carcass IPP. FSIS expects this action to impact 194 establishments (70 small establishments plus 149 large establishments minus 25 HIMP establishments);

(2) A limit of one FSIS online carcass inspector per evisceration line. FSIS expects this action to impact 194 establishments;

(3) Removal of the existing Finished Product Standards (FPS) and subsequent replacement with a requirement to maintain records that document that the finished products meet the definition of ready-to-cook poultry. Establishments will have the flexibility to design and implement measures for producing ready-to-cook poultry that are best suited to their operations. In addition to inspecting for food safety defects, the FSIS online carcass inspector will also conduct a carcass inspection for defects that are less important to food safety. The presence of persistent, unattended defects would indicate that the plant is not producing ready-to-cook poultry. FSIS expects this action to may impact up to 219 establishments;

(4) Requirement that facilities in the establishment include:

(a) An online carcass inspection station for each evisceration line; (b) one or more offline carcass inspection stations for each evisceration line; (c) an online area for the online inspection of carcasses for avian leukosis; and (d) an underline trough for each evisceration line in order to prevent the contamination of online carcasses by removed poultry waste or inedible products of the evisceration process. FSIS expects that this action would affect, at a maximum, about 219 establishments that may choose to adopt this new inspection system out of 270 official federally inspected establishments that slaughter young chickens and turkeys (refer to Table 4 for further explanation of the number of establishments affected). This 219 total includes HIMP establishments, though they will have already installed this equipment, meaning that 194 establishments are affected; and

(5) a requirement that each establishment that participates in the New Poultry Inspection System (NPIS) shall submit on an annual basis an attestation to the management member of the local FSIS circuit safety committee stating that it maintains a program to monitor and document any work-related conditions of establishment workers, and that the program includes the elements listed in the preamble.

B. Elements that would affect all 289 poultry, non-ratite slaughter establishments:

(1) Development, implementation, and maintenance of written procedures to prevent contamination of carcasses and parts by fecal material and enteric pathogens (e.g., *Salmonella* and *Campylobacter*) as part of an establishment's HACCP plans, sanitation SOPs, or other prerequisite programs. FSIS is requiring that, at a minimum, these written procedures include sampling and analysis for microbial organisms at the pre-chill and post-chill points in the process to verify process control (except for very small HACCP size establishments and very low volume establishments, which are required to sample only at post-chill);

(2) Development, implementation, and maintenance of written procedures to ensure that carcasses and parts with visible fecal contamination do not enter the chiller as part of an establishment's HACCP plans, sanitation SOPs, or other prerequisite programs;

(3) Removal of the current requirement to test for generic *E. coli* and the codified *Salmonella* pathogen reduction performance standards for poultry;

(4) Removal of the chilling requirements for ready-to-cook (RTC) poultry, which now provide specific time and temperature parameters; and

(5) Requirements regarding the use of approved online reprocessing antimicrobial systems or offline reprocessing approved antimicrobial agents, if these procedures for reprocessing are incorporated into their HACCP plans, sanitation SOPs, or other prerequisite programs.

Baseline

Table 2 compares the components or requirements of the actions of the final rule to the current regulatory regime for all federally inspected establishments that slaughtered all poultry other than ratites. From the FSIS Animal Disposition Reporting System (ADRS), we identified 289 establishments in 2010 slaughtering poultry (excluding ratites). Actions include requirements for young chicken and turkey establishments and requirements for all poultry slaughter establishments

excluding ratites. Table 2 includes information for SIS and NELS inspection systems and SIS Automated Evisceration Equipment Systems, referred to as MAESTRO, which is an acronym for ''Meyn's Automatic Evisceration System Total Removal of Organs'', and Nu-Tech Nuova. These automated poultry evisceration systems were introduced in the late 1990s. For young chicken establishments, up to four FSIS inspectors are stationed on the same side of a processing line that runs at a maximum of 140 birds per minute (bpm) or 35 bpm per inspector—the same per-inspector line speed as under SIS. The evisceration equipment used in SIS or NELS must be supported by establishment employees who manually complete carcass and viscera presentation. In contrast, the automated evisceration systems do not require that support.

TABLE 2—COMPARISON OF KEY COMPONENTS OF THE BASELINE REGULATORY ENVIRONMENT AND THE RULE

Key features or provisions of the rule	Very small and small HACCP size establishments traditional		Small and large non-traditional		
	Baseline	Rule	Current inspection systems	HIMP	NPIS
Number of Establishments	70		194	25.	
Carcass Sorting Activities	FSIS	FSIS	FSIS	Establishment	Establishment.
Online Inspector per Line	1–4	1–4	2–4	1	1.
Online Inspector Limit	No	No	No	Yes	Yes.
Addition of Online Establishment Workers because of Relocation of Online IPP.	No	No	No	Yes	Yes.
Line Speed Maximum Birds per minute for Young Chickens.	25–46	25–46	70–140	175	140.
Line Speed Maximum Birds per minute for Mature Chickens.	≤66	≤66	N/A [1]	N/A	SIP Waiver determined.
Line Speed Maximum Birds per minute for Turkeys.	16–25	16–25	21–51	55	55.
Line Speed Maximum Birds per minute for Other Poultry.	≤66	≤66	N/A	N/A	SIP Waiver determined.
Records to document that products meet the definition of RTC poultry.	No	No	No	No	Yes.
New Facilities Requirements	No	No	No	Yes	Yes.
New carcass inspection station for each evisceration line.	No	No	No	Yes	Yes.
New carcass inspection area online for avian leukosis for each evisceration line.	No	No	No	No	Yes.
Underline Trough for each evisceration line.	No	No	No	Yes	Yes.
HACCP System—written to prevent Sep/Tox carcasses from entering chiller.	No	No	No	No	Yes.
HACCP System—written to prevent contamination by enteric pathogens and fecal material & testing.	No	Yes	No	No	Yes.
HACCP System—written to prevent carcasses contaminated with fecal material from entering the chill tank.	No	Yes	No	No	Yes.
Replace Requirement to Test for Generic *E. coli* and *Salmonella* performance standards with 2-point testing.[2]	No	Yes	No	No	Yes.
End Waivers for: Chilling Requirements for RTC Time and Temp Eliminated.	No	Yes	No	No	Yes.
End Waivers for: Use Online Reprocessing (OLR) Antimicrobial Systems or Offline Antimicrobial Agents.	No	Yes	No	No	Yes.

[1] N/A—does not apply.
[2] Very small HACCP size establishments and very low volume establishments are required to test in one location.

Under the final rule, any of the young chicken and turkey establishments (assumed to be limited to the 219 large and small non-Traditional establishments) that adopt the new inspection system (some while operating under updated SIP waivers), will have one online inspector per line. Currently, there are two to four online inspectors per line under the current non-traditional systems (SIS, NELS, and NTIS); however, there is one online inspector per line under HIMP. Even though FSIS, in the analysis that follows, only quantifies costs, rather than benefits, of switching to NPIS, FSIS predicts that some small and large non-traditional establishments alike will choose to adopt the NPIS because it will give them greater control over their production process and more flexibility to design, develop, and implement new technologies. Comments received from industry indicate that the benefits to food safety and the overall efficiencies to be gained by the NPIS would be worth the cost and investment to

industry. These comments were submitted in response to the proposed rule that would have allowed a maximum line speed of 175 bpm under NPIS. Thus, the change in policy between the proposed and final rule may change the appropriate interpretation of some of these comments. However, one industry trade association commented that the proposed rule's Preliminary Regulatory Impact Analysis contained unrealistic assumptions of how many establishments would have chosen to, or would have been capable of, operating at the faster line speeds that would have been permitted under the proposed NPIS. Nevertheless, regardless of line speed, this trade association believed that the benefits to food safety and the overall efficiencies to be gained by the NPIS would be worth the cost and investment to industry as noted throughout this document. Establishments will have the flexibility to design and implement measures for producing ready-to-cook poultry tailored to their operations. The NPIS would also give establishments the ability to investigate and develop new and more efficient technologies.

The Agency's experience under HIMP demonstrates that young chicken establishments have incentives to participate and remain in the HIMP pilot for reasons other than the ability to operate faster line speeds. Experience from the HIMP pilot shows that HIMP establishments operate with an average line speed of 131 bpm, and that although they are authorized to do so, most of the young chicken HIMP establishments do not operate line speeds at 175 bpm. Thus, the faster line speeds authorized under HIMP do not appear to be the primary incentive for establishments to participate in the pilot because the average line speed of establishments operating under the HIMP inspection is slower than the 140 bpm maximum line speed authorized under the existing inspection systems.

The Agency's experience under HIMP also shows that once establishments are selected to participate in the HIMP pilot, they choose to remain under the HIMP inspection system. In 2002, after FSIS had selected 20 young chicken establishments to participate in the HIMP pilot, the Agency informed the industry that it would limit the pilot to 20 establishments. At that time, over 40 establishments were placed on a waiting list to participate in the HIMP pilot. Since then, two establishments left the pilot because they closed. These establishments were replaced by establishments on the waiting list, and more than 40 establishments remain on the list. Thus, the Agency's experience under HIMP shows that young chicken establishments continue to be interested in participating in the HIMP pilot, and those that are selected for the pilot choose to remain under the HIMP inspection system even though many are not operating at the maximum line speeds authorized under HIMP.

Table 3 shows the baseline characterization of the U.S. poultry market for birds other than ratites in 2010. Domestic federally inspected establishments slaughtered and dressed about 8.8 billion birds other than ratites in 2010, including about 8.4 billion young chickens; about 140 million other chickens (e.g., fowl and capon); about 252 million turkeys; and about 27 million other poultry (e.g., ducks, geese, quail, pheasants, and squab). Establishments slaughtered about 8.64 billion young chickens and turkeys.

TABLE 3—BASELINE CHARACTERIZATION OF THE U.S. POULTRY MARKET

	Young chickens	Other chickens	Turkey	Other poultry
Market price ($/bird) [1]	$3.38	$1.34	$22.74	$9.02
Market quantity [2] (thousand birds/year):				
Domestic production	8,386,671.6	139,499.2	251,787. 8	26,781.1
Exports	1,314,710.8	14,675.8	18,428.9	903.4
Imports	9,314.1	0	229.8	243.2

[1] Market price is calculated by multiplying the wholesale price per pound by the average dressed weight.

[2] Market quantities in thousands of birds (dressed carcasses), or animal (dressed carcass) equivalence, other than ratites. Source: Muth, M.K., Beach, R.H., Viator, C.L., Karns, S.A., & Taylor, J.L. (2006). Poultry Slaughter and Processing Sector Facility-Level Model. Prepared for U.S. Department of Agriculture, Food Safety and Inspection Service. Research Triangle Park, NC: RTI International.

A summary of the types of young chicken and turkey operations and the sizes of these official establishments is in Table 4 (FSIS ADRS 2010). Table 4 summarizes the 270 federally inspected establishments that slaughtered young chickens (231 establishments) and turkeys (39 establishments) along with the 19 that slaughtered other chicken (such as fowl and capon) (6 establishments) and only other poultry (such as squabs, pheasants, quail, ducks or geese) (13 establishments) in 2010.

Table 4: Summary of HACCP Establishment Size of the 289 Official Establishments that Slaughtered All Poultry under Federal Inspection in 2010 (FSIS ADRS, 2010)

Type of Operation		Very Small	Small	Large	Total	Percent of all est.
Young Chicken[1]	Young Only	7 (4%)	33 (20%)	124 (76%)	164	(57%)
	Young and Mature	11 (42%)	14 (54%)	1 (4%)	26	(9%)
	Young Chicken and Other Poultry	26 (63%)	13 (32%)	2 (5%)	41	(14%)
Turkeys	Young Only	7 (23%)	6 (20%)	17 (57%)	30	(10%)
	Young and Mature	0	4 (44%)	5 (56%)	9	(3%)
Total Young Chicken and Turkeys		**51 (19%)**	**70 (26%)**	**149 (55%)**	**270 (100%)**	**(93%)**
Other Chicken		0	4 (67%)	2 (33%)	6	(2%)
Other Poultry		3 (23%)	10 (77%)	0	13	(4%)
Total Poultry		**54 (19%)**	**84 (29%)**	**151 (52%)**	**289 (100%)**	**(100%)[2]**

[1] Establishments that slaughter primarily young chickens.
[2] Totals do not add up due to rounding.

FSIS ADRS 2010 records indicated that there were 663 line-shifts in 270 establishments that slaughter young chickens and turkeys, as shown in Table 5.[20] In these establishments, one shift is defined as about 8 hours per day and two shifts as about 16 hours per day. Approximately 55 percent of the 270 establishments operated two slaughter shifts per day in 2010. For this analysis, the 663 line-shifts of production results from multiplying the number of lines by the number of shifts. Table 5 shows the details of the FSIS ADRS 2010 information on the 270 young chicken and turkey establishments, classified by current inspection system. FSIS maintains this type of information because staffing patterns in current inspection systems are determined based on the number and type of slaughter lines. These 663 lines operate daily in the 270 young chicken and turkey establishments with one or two 8-hour-shift(s), on about 5 or 6 days of the week.

Table 5 also summarizes the maximum potential transition over five years, assuming available resources and institutional readiness, of the young chicken and turkey industry to the new inspection system. This table shows the distribution of the 270 establishments that slaughtered young chickens and turkeys in 2010.

Of the 187 young chicken establishments (not under the Traditional Inspection System) with 542 lines, there were 117 establishments under SIS inspection, 50 under NELS inspection, and 20 under the HIMP inspection. Of the 32 turkey establishments (not under the Traditional Inspection System) with 56 lines, there were 27 establishments under NTIS inspection, and 5 under the HIMP inspection. Altogether, this suggests a maximum of 219 of the 270 young chicken and turkey establishments, or 81 percent, which have about 598 lines, have the opportunity to convert to NPIS.

[20] Included in this number are the very small establishments that annually slaughter a relatively small number of young chickens and turkeys by methods that do not use a high-speed line.

Table 5: Potential Maximum Transition of 270 Official Establishments and Line-Shifts that Slaughtered Young Chickens and Turkeys under Federal Inspection Systems to the New Inspection System and the Modified Traditional Inspection System (source: FSIS ADRS, 2010)[1]

<table>
<tr><th colspan="6">Inspection Systems Before the Rule</th></tr>
<tr><td colspan="6"><u>Slaughter Processing – with Lines in 2010</u>
270 Establishments
663 Line-shifts</td></tr>
<tr><td colspan="5"><u>Large and Small</u>
219 Establishments
598 Line-shifts</td><td><u>Very Small</u>
51 Establishments
65 Line-shifts</td></tr>
<tr><td colspan="3"><u>Young Chickens</u>
187 Establishments
542 Line-shifts</td><td colspan="2"><u>Turkeys</u>
32 Establishments
56 Line-shifts</td><td><u>Young Chickens and Turkeys</u>
51 Establishments
65 Line-shifts</td></tr>
<tr><td>SIS
117 Estab.
346 Line-shifts</td><td>NELS
50 Estab.
153 Line-shifts</td><td>HIMP
20 Estab.
43 line-shifts</td><td>NTIS
27 Estab.
42 line-shifts</td><td>HIMP
5 Estab.
14 line-shifts</td><td>Traditional
51 Establishments
65 Line-shifts</td></tr>
<tr><th colspan="6">Potential Inspection Systems Under Assumption of 100% Implementation</th></tr>
<tr><td colspan="5"><u>New Inspection System (Young Chickens and Turkeys)</u>
219 Establishments
598 Line-shifts</td><td><u>Modified Traditional</u>
51 Establishments
65 Line-shifts</td></tr>
</table>

Notes: The number of line shifts results from multiplying the number of lines by the number of shifts. Each shift is about 8 hours of operation per day.

1 FSIS cannot definitively predict potential transitions and therefore presents this data on potential maximum transition as background information.

Table 6 shows that of the 187 young chicken establishments (not under the Traditional Inspection System) with 542 lines, 127 were HACCP large establishments and 60 were HACCP small establishments. Of the 32 turkey establishments (not under the Traditional Inspection System) with 56 lines, 22 were HACCP large establishments and 10 were HACCP small establishments.

Table 6: Number of Lines of 289 Establishments that Slaughtered Young Chickens, Other Chickens, Turkeys and Other Poultry under Federal Inspection Systems (FSIS ADRS, 2010)

Numbers of Evisceration Lines in Active Federally Inspected Establishments that Slaughter All Classes of Poultry Other than Ratites

Establishment HACCP Size	Number of Establishments	Number of Evisceration Line-shifts	Number of Establishments - 1-shift	Number of Establishments - 2-shifts
Very Small	54	68	54	0
Small	84	99	82	2
Large	151	531	0	151
Total	289	698	136	153

Numbers of Evisceration Lines in Active Federally Inspected Establishments that Slaughter Primarily Young Chickens

Establishment HACCP Size	Number of Establishments	Number of Evisceration Line-shifts	Number of Establishments - 1-shift	Number of Establishments - 2-shifts
Very Small	44	58	44	0
Small	60	60	60	0
Large	127	482	0	127
Total	231	600	104	127

Numbers of Evisceration Lines in Active Federally Inspected Establishments that Slaughter Primarily Turkeys

Establishment HACCP Size	Number of Establishments	Number of Evisceration Line-shifts	Number of Establishments - 1-shift	Number of Establishments - 2-shifts
Very Small	7	7	7	0
Small	10	15	10	0
Large	22	41	0	22
Total	39	63	17	22

Numbers of Evisceration Lines in Active Federally Inspected Establishments that Slaughter Only Other Chickens (e.g., Fowl)

Establishment HACCP Size	Number of Establishments	Number of Evisceration Line-shifts	Number of Establishments - 1-shift	Number of Establishments - 2-shifts
Very Small	0	0	0	0
Small	4	4	4	0
Large	2	8	0	2
Total	6	12	4	2

Numbers of Evisceration Lines in Active Federally Inspected Establishments that Slaughter Primarily Other Poultry (e.g., Ducks)

Establishment HACCP Size	Number of Establishments	Number of Evisceration Line-shifts	Number of Establishments - 1-shift	Number of Establishments - 2-shifts
Very Small	3	3	3	0
Small	10	20	8	2
Large	0	0	0	0
Total	13	23	11	2

Sources: FSIS PBIS, March 2011 -these federally inspected establishments have 03J HACCP codes for slaughter operations. FSIS ADRS, March 2011 - these federally inspected establishments slaughtered poultry in 2010.

Notes: 1-shift is about 8 hours of slaughter operation; 2-shifts are about 16 hours of slaughter operation, each workday. Some establishments have more than one line per shift. Therefore, the total number of evisceration line-shifts (column 2) will be greater than the total number of establishments with 1 and 2-lineshifts (columns three and four).

Estimated Number of Establishments Predicted To Opt for the Modified Traditional Inspection System

FSIS estimates that about 70 federally inspected establishments will switch from their current Traditional Inspection System to the modified Traditional Inspection System for the slaughter of poultry, other than ratites. The 70 establishments consist of 51 very small HACCP size establishments, or about 19 percent of the 270 official federally inspected establishments that slaughter young chickens and turkeys, and 19 establishments that slaughter poultry but not young chicken or turkey (or ratites). The very small HACCP size young chicken and turkey establishments, in general, do not have sufficient output volume over which to spread the initial set-up costs of any of the more automated systems or the training and maintenance costs resulting from this system.

These 70 establishments represent about 24 percent of the 289 official federally inspected establishments that slaughtered one or more classes of poultry other than ratites,[21] under all poultry inspection systems in 2010. Based on FSIS's ADRS records, these 70 establishments slaughtered about 1 percent of all poultry (other than ratites) of the domestic poultry industry in 2010. Furthermore, the approximately 219 official federally inspected establishments slaughtered about 99.9 percent of the young chickens and turkeys of the domestic poultry industry in 2010.

[21] Based on FSIS's Animal Disposition Reporting System (ADRS) of 2010, 289 establishments slaughtered all classes of poultry, other than ratites, under all poultry inspection systems in 2010. Of the 289 establishments, about 270 establishments slaughtered young chicken and young turkey in 2010.

Summary of Estimated Costs and Cost Savings of the Rule

In the following sub-sections, FSIS presents the costs and cost savings that would be generated over a range of assumptions with respect to how much of the industry will choose to adopt NPIS within five years. These estimates are scaled from an illustrative calculation that assumes that all 219 small and large non-Traditional establishments adopt NPIS, which, while used to calculate potential maximum effect, is not necessarily FSIS's assumption of the most likely outcome. Later portions of the regulatory impact analysis contain discussion of the uncertainty surrounding the net benefits associated with how much of the industry will choose to adopt NPIS.

Items 1–7 are Costs and Cost Savings Associated With the New Poultry Inspection System

1. Addition of Online Establishment Workers Because of the Relocation of Online Inspection Program Personnel and Online Sorters—Annual Cost Associated With the New Poultry Inspection System

FSIS estimates that young chicken and turkey establishments that transition to NPIS will initially expand their labor resources by employing about an average of 0.8 staff-years of online sorters and carcass-inspection helpers that substitute for every 1.0 staff-year of FSIS online inspection program personnel. For example, in one shift, an establishment that had ten FSIS online inspection program personnel would add eight online sorters and carcass-inspection helpers in response to the rule. This substitution rate is based on information provided by 12 young chicken establishments in 2001 who participated in the HIMP pilot program.[22] If all of the 219 establishments eventually slaughtered young chickens and turkeys under the NPIS, this would translate to between 663 and 770 FSIS online inspection program personnel shifted from online inspection to verification inspection activities and online inspection of carcasses (carcass inspection, after the final wash and before the chiller). However, as noted above, there is not a way to predict how many of the establishments will transition to NPIS, or over what time frame FSIS would have the resources to accommodate requests after the initial 6 month period. As such, table 8b suggests that the range of personnel under assumptions that span 0 and 100 percent range from 0 to 770 online inspectors. FSIS estimates that the 770 shifted FSIS online inspection program personnel is the upper bound if indeed all the 219 establishments estimated earlier opt to transition to NPIS during the first five years.

Using the expected substitution rate of 0.8 (8 for 10), under the 100 percent adoption assumption for analytic purposes, the estimated 219 establishments would initially need about 616 (770×0.8) additional trained personnel to do the online sorting of young chickens and turkeys, and helping carcass inspection program personnel for all shifts. This implies that the range of reassignments by FSIS would be between 0 and about 770 inspection program personnel to other inspection activities within the establishments (e.g. carcass inspection, verification inspection, and relief coverage). The upper bound of this range, or 770 inspection program personnel, however, may be an over-estimate, because of attrition. The Bureau of Labor Statistics (BLS) indicated that the expected standard rate for establishment labor is about $13.96 per hour,[23] and including benefits and related costs, the wage cost is taken for this analysis to be about $27,900 per staff-year (for about 2,000 hours[24] per staff-year). Therefore, the average cost if 219 establishments were to adopt NPIS within five years, would be for the initial additional 616 staff-years of online sorter labor is about $17.2 million annually ($616 \times \$27{,}900$).

2. Training Online Sorters, Under the New Inspection System—One-time Cost Associated With the New Poultry Inspection System

Initial training costs are expected, based on information provided by establishments participating in the HIMP pilot program, to be about $200 to $600 per employee (sorter), or an average cost of about $400 per employee. Additional training costs accrue for the extra establishment employees (sorters) needed to cover for task rotation patterns and scheduled and unscheduled leave of trained establishment employees. FSIS projects, based on information provided by establishments participating in the HIMP pilot program, that rotation schedules would be about three times per shift. FSIS did not report costs in the official HIMP Report. FSIS, however, obtained information on establishment costs and practices from site visits to the HIMP project establishments and non-HIMP establishments that slaughter poultry. The HIMP establishments (20 young chickens and 5 turkeys, as shown in Table 5) reported a range of costs for their implementation of the FSIS's requirements of the HIMP inspection system. Based on this information, FSIS made assumptions on costs and practices of the poultry establishments that would be affected by this rule.

FSIS assumes that the, using the maximum potential upper bound of establishments, 219 establishments will need about 3.5 to 4 times the replacement staff-years, or about 2,310 (3.75×616) establishment employees who are trained to perform online sorting and CI helper activities. Therefore, initially, an average of about 2,310 establishment employees would need to be trained at a one-time average cost of about $400 each, or a total for estimated 219 establishments, of about $0.92 million ($2{,}310 \times \$400$).

3. Training, Annually—for Replacement Sorters Due to Labor Turnover—Annual Cost Associated With the New Poultry Inspection System

Annual training costs are estimated based on information provided by establishments participating in the HIMP pilot program, in order to account for the expected labor turnover rates in young chicken and turkey establishments and the need to train and educate replacement establishment personnel for sorting young chickens and turkeys.

FSIS projects that, if the annual turnover rate of trained establishment sorters is, on average, 40 percent, establishments will need to train about 924 ($0.4 \times 2{,}310$) new establishment sorters annually.[25] FSIS projects that the initial training costs are expected to be about $200 to $600, or an average of about $400 per employee (sorter). Using the $400 per employee values, additional training costs will average about $0.37 million ($924 \times \$400$), annually.

[22] Most of the cost estimates in this section are also based on the data collected from these 12 establishments.

[23] According to the 2011 Bureau of Labor Statistics employment cost index, hourly wages for slaughtering and meatpacking workers is $11.63. Estimates of benefits as a percent of total wages range from 20 to 39 percent according to the American Meat Institute. Since the poultry industry is at the low end of the wage scale, we are estimating benefits to be 20 percent of total wages.

[24] This is a simplifying assumption.

[25] BLS reported that the overall private industry turnover rate was approximately 41 percent in 2011. FSIS is rounding to 40 percent. U.S. Department of Labor. Bureau of Labor Statistics. (2011). Job Openings and Labor Turnover Survey. Washington, DC: U.S. Department of Labor.

4. Continuing Education & Training, Annually—for Existing Sorter Labor—Annual Cost Associated With the New Poultry Inspection System

After the initial training, the establishments will have additional costs to provide ongoing annual education and training (formalized). This education and training is for the knowledgeable establishment staff (sorters) of an average of about 2,310 persons who need to maintain a sufficiently high correlation of agreement with FSIS on regulatory compliance for dressing performance standards. The annual training cost, based on information provided by establishments participating in the HIMP pilot program, was about $150 to $200 per sorter, or an average of $175 per sorter. Using this average value, the total average cost would be about $0.40 million (2,310 × $175), annually.

5. Additions to Facilities: Carcass Inspection Stations, Avian Leukosis Inspection Area, and Underline Troughs One Time Costs Associated With the New Poultry Inspection System

Under the rule, all of the poultry establishments participating in the NPIS will need to add capital investments to install a carcass inspection height-adjustable station.

Establishments operating under SIS, NELS, and NTIS are currently required to have an underline trough but they will need an additional new trough at the end of the evisceration line. The 25 establishments (20 young chicken and 5 turkey) that operate under HIMP (Table 5) will not need new trough installations under the new rule. FSIS assumes installations will require a stainless steel underline trough (or equivalent) that will cost about $8,000 to $12,000, or an average of about $10,000, for most establishments, based on information provided by commercial construction guidelines of costs for purchasing (or constructing) and installing such systems. FSIS estimates that as many as 194 establishments (Table 5, based on a projection that up to 219 establishments may adopt the NPIS, minus the 25 HIMP establishments) will need inspection stations that will cost about $5,000 to $6,000, or an average of about $5,500, for most establishments, based on information provided by establishments participating in the HIMP pilot program.

For the carcass inspection station, this cost is for the construction of a stainless steel height-adjustable stand that has stairs and a surrounding guardrail. This carcass inspection stand must have a floor area large enough to allow sufficient space to accommodate the carcass inspection program person and an establishment employee, that is, a helper for removal of defective or rejected birds from the line. This inspection station would contain plumbing for hot and cold water, and a stainless steel hand-washing basin.

Furthermore, electrical service must be installed for powering bright lights (200 foot-candles of illumination at the level of the bird) required for inspection, and control switches must be installed to allow the starting and stopping of the eviscerating line. The verification inspection station typically is already in place in most young chicken and turkey, and other poultry slaughter establishments. Therefore, in most cases, there would be no additional cost for a verification inspection station near the end of the eviscerating line. The verification inspection station is typically a stainless steel table illuminated with bright lights (200 foot-candles).

These capital investments for the carcass inspection stations are necessary for each of the about 541 eviscerating lines now installed in the 194 non-HIMP establishments (Table 5) that may implement the NPIS. Therefore, the calculated cost for adding carcass and verification inspection stations for the 194 establishments is about $8.39 million (541 × $15,500).

6. Carcass Dressing for Meeting the Definition of Ready-to-Cook (RTC) Poultry and the Removal of the Finished Product Standards (FPS) Associated With the New Poultry Inspection System

FSIS is removing the existing Finished Product Standards (FPS) and replacing them with a requirement that establishments maintain documentation to demonstrate that the products resulting from their slaughter operations meet the definition of ready-to-cook poultry. Establishments will have the flexibility to design and implement measures for producing ready-to-cook poultry that are best suited to their operations and may have minimal savings. These savings are not included in the benefits estimate.

FSIS online carcass inspectors will inspect each carcass for defects that are important for food safety, such as septicemia and toxemia, as well as for defects that are less important to food safety but that may render carcasses or parts unwholesome or adulterated, such as persistent, unattended removable animal diseases and trim and dressing defects.

7. Additional Annual Labor Cost Due to Attestation of Work-Related Conditions

Each establishment operating under the NPIS will need to submit on an annual basis an attestation to the management member of the local FSIS circuit safety committee stating that it maintains a program to monitor and document any work-related conditions of establishment workers. The cost of this attestation is estimated to take 2 minutes at a wage rate of $13.96 per hour for a total of $102 annually.

Total Costs and Cost Savings Associated With the New Poultry Inspection System

FSIS assumes that the projected adoption of NPIS will take place over a five year time period.[26] FSIS expects that HACCP size large establishments will be the first to convert to the new inspection system because they have greater resources available to them to make the necessary changes. For the purposes of estimating costs, FSIS assumed that 68% of all establishments that convert to NPIS will have implemented NPIS by the third year, with approximately 1/3 of these establishments converting each of the first three years. For the small establishments that implement NPIS, FSIS assumed that half would convert in year four, and half would convert in year five. If all large and small establishments adopt NPIS, this pattern would result in the complete conversion of establishments to the new inspection system within the five year period used for this analysis. FSIS is uncertain about how many and how fast establishments might opt into NPIS, as such, FSIS presents the data in table 8b to reflect that uncertainty.

As such, the costs to industry associated with making the necessary changes to implement NPIS will fluctuate over the initial five years. FSIS used establishment information including HACCP size, line-shift data (see Table 5), and approximate volume contributions[27] to estimate how one-time industry costs will be spread across

[26] Please refer to the ''Baseline'' section for further explanation on the projected adoption rate of NPIS.

[27] The USDA, GIPSA 2012 Packers and Stockyards Annual Report states that the four largest broiler slaughterers posted a 52 percent market share in 2011. The share of the four largest turkey slaughterers was 55 percent in 2011. The U.S. Census Bureau 2007 Economic Census of the United States reports that the 50 largest Poultry Processing Companies (2007 NAICS 311615) post a 91.5% share of the total value of shipments. For the purposes of this analysis, FSIS assumed that large establishments accounted for 90% of the production volume and small establishments accounted for the remaining 9.9%. According to our analysis, very small establishments account for the remaining 0.1%.

the first five years. FSIS also used this information to approximate the recurring costs to industry over time. These estimated costs are summarized in Table 7a. Annualized costs were calculated using a discount rate of 7 percent over a ten-year period.[28]

TABLE 7a—ESTIMATED YEAR-BY-YEAR COST OF THE RULE IF ALL LARGE AND SMALL NON-TRADITIONAL ESTABLISHMENTS SELECT THE NEW POULTRY INSPECTION SYSTEM

[Millions of dollars]

	Year 1	Year 2	Year 3	Year 4	Year 5	Recurring
Annual sorting labor	5.01	10.03	15.04	16.12	17.20	17.20
Knowledge costs (human capital):						
Initial one-time training of sorting workers	0.27	0.27	0.27	0.06	0.06	.....
Training annual sorting labor-turnover rate of 40%	.....	0.11	0.22	0.32	0.35	0.37
Continuing annual education and training	.....	0.12	0.24	0.35	0.38	0.40
One-time capital expenditure	2.44	2.44	2.44	0.53	0.53	.....
Paperwork cost due to attestation of work-related conditions	**	**	**	**	**	**
Total costs to establishments from NPIS	7.73	12.97	18.21	17.38	18.51	17.97
Annualized (7%, 10 year) total cost to establishments from NPIS	16.00					
Annualized (3%, 10 year) total cost to establishments from NPIS	16.27					

** less than $1000, which rounds to zero.

Items 8–12 Are Costs and Cost Savings Associated With the Mandatory Component of the Rule

8. Sampling and Analysis for Microbial Organisms Pre-Chill and Post-Chill To Monitor Process Control for Enteric Pathogens—One-Time and Annual Cost Associated With the Mandatory Component

FSIS is requiring microbial testing to demonstrate process control regarding the prevention of contamination of carcasses and parts by enteric pathogens and fecal contamination throughout the entire slaughter and dressing operation. FSIS is requiring establishments to incorporate these procedures into their HACCP plans, or sanitation SOPs, or other prerequisite programs, and to maintain records sufficient to document the implementation and monitoring of these procedures.

The regulation requires most establishments for each poultry type to sample at two locations: pre-chill and post-chill. The exceptions are for very small HACCP size establishments that choose to operate under the modified Traditional Inspection System, which FSIS will permit to conduct sampling only at post-chill. For two samples per sampling event, FSIS assumes that it would take about 25 minutes for a QC technician to collect these samples; for one sample, FSIS assumes it would take 15 minutes to collect the sample. FSIS assumes costs of $3.75 for material and time needed to provide sampling record identification at the laboratory for two samples, and one-half that amount of time for one sample. For two locations, the cost per sampling event is $45.85; for one location, the cost per sampling event is $24.13.[29] FSIS assumes a cost of sending material and samples between the establishment and laboratory of about $15 per sampling event, if the laboratory is not on-site. Most large establishments have laboratories on premises; FSIS assumes that 90 percent of large HACCP size establishments have laboratories on the premises, and thus would not incur a cost for sending samples to the laboratory. FSIS assumes that 25 percent of small and very small HACCP size establishments have laboratories onsite. Accounting for our assumed percentages of samples that would need to be sent to laboratories, FSIS assumes a cost of $47.35 per sampling event for large HACCP size establishments, $57.10 per sampling event for small HACCP size establishments, and $35.38 per sampling event for very small HACCP size establishments (at one location).[30] For record keeping (discussed in a later section), FSIS assumes 5 minutes for a sampling event for 2 locations, and 2.5 minutes for 1 location, at the same $29.03 per hour wage.

To establish a baseline, for other than very low volume establishments, FSIS assumes that large HACCP size establishments would collect 150 pairs of samples, on average; small HACCP size establishments, 75 pairs; and very small HACCP size establishments, 30 samples. For very low volume establishments,[31] FSIS assumes that sampling would be minimal, and that for these establishments there would be no baseline. The number of samples that establishments would collect for each poultry type is proportional to the number of slaughtered birds for the different poultry types.

To estimate the recurring annual cost for sampling, FSIS assumes sampling at a rate of 1 sampling event per 22,000 carcasses for sampling chicken, and 1 per 3,000 carcasses for sampling other species. For very low volume establishments, FSIS assumes at least one sample per week to a maximum of 16 samples per year, because some low volume establishments might need to take more than 13 samples to demonstrate process control.[32] Based on

[28] FSIS assumes first-year costs are incurred at the end of the year.

[29] FSIS assumes that establishments would not necessarily use generic *E coli* because the cost per analysis of this organism is greater than that for other indicator organisms. While costs per sample can vary greatly depending on many factors, we assumed an average cost of $15 per sample, plus a modest laboratory labor cost ($3.75) for handling paper. Therefore, the cost per sampling event collecting two samples, excluding sending cost, is $30 + $3.75 + $29.03(25/60) = $45.85. The cost per sampling event collecting one sample is $15 + $1.87 + $29.03(15/60) = $24.13.

[30] For example, for large HACCP size establishments, the cost per sampling event is: [(0.9) ($45.85) + (0.1) (45.85 + 15)] = $47.35, because we assumed that 90 percent of the samples would not need to be sent by mail.

[31] FSIS assumes these establishments would remain under Traditional Inspection.

[32] For the original HACCP rule, FSIS required 13 samples provided that statistical criteria that FSIS used were satisfied. The expected number of samples for this to occur is about 16.

these assumptions, we calculated an expected number of sampling events that establishments would take, and multiplied these numbers by the appropriate costs per sampling event (weighted sum with weights equal to the appropriate cost for the sampling event). We provide cost estimates in Table 7b.

FSIS expects industry to incur a savings by reducing present costs associated with sampling for satisfying the present Finished Product Standards (FPS), and that additional cost to industry due to our Other Consumer Protection (OCP) requirements, if any, would be minimal. Thus, FSIS did not include costs associated with the replacement of the present FPS requirements with the and new OCP requirements.

9. Additional Annual Recordkeeping, Monitoring, and Record Storage Associated With the Mandatory Component

Establishments are required to maintain written documentation of sample results for verifying their process controls. FSIS assumes that the time spent for a QC technician salaried at $29.03 per hour for recording results (including review) for each sample is 2.5 minutes. If two samples are collected (pre-chill and post-chill), FSIS assumes 5 minutes are needed. For the present required generic *E. coli* testing, FSIS assumes 2.5 minutes per sample.

10. (a.) Modification of the HACCP Plans and Process Control Plans—One-time Cost Associated With the Mandatory Component of the Rule

Establishments will need to modify their HACCP plans, sanitation SOPs, or other pre-requisite programs to address septicemic and toxemic carcasses and food safety hazards that are reasonably likely to occur. Establishments will also be required to maintain records to document that their product meets the definition for ready-to-cook poultry. Under the rule, establishments will have the flexibility to design and implement measures to address OCP defects that are best suited to their operations. They will also be responsible for determining the type of records that will best document that they are meeting the ready-to-cook poultry definition. FSIS based its estimates on information provided by establishments participating in the HIMP pilot program regarding initial costs for modifications to their HACCP plans. FSIS estimates that, on average, the initial costs will be about $5,000 for small HACCP size establishments and about $9,000 for large HACCP size establishments. For the very small HACCP size establishments, FSIS projected a cost of about $2,000, on average. Therefore, we estimate the one-time cost to be equal to about $1.89 million ((84 × $5,000) + (151 × $9,000) + (54 × $2,000)) for the 289 establishments.[33] Moreover, once establishments design and implement these modifications, they will incorporate them in their present HACCP plans, and thus we assume no additional recurring cost associated with these modifications. FSIS does not expect these costs to vary by the type or species of bird that the establishments slaughter.

10. (b.) Written Procedures To Ensure That Carcasses and Parts With Visible Fecal Contamination Do Not Enter the Chiller, After Evisceration Operations—One-time Cost Associated With the Mandatory Component of the Rule

FSIS is requiring that all federally inspected establishments that slaughtered poultry (other than ratites) develop, implement, and maintain, as part of their HACCP plans, sanitation SOPs, or other prerequisite programs, written procedures to ensure that carcasses and parts with visible fecal contamination do not enter the chiller after evisceration operations. The one-time cost to develop the plan is included in the costs of changing the HACCP system as discussed above in item 10.a.

10. (c.) Written Procedures To Ensure That Young Chicken and Turkey Carcasses Contaminated With Septicemic and Toxemic Conditions Do Not Enter the Chiller, for the New Poultry Inspection System Associated With the Mandatory Component of the Rule

FSIS is requiring that the 219 federally inspected establishments that may decide to slaughter young chickens and turkeys under the NPIS develop, implement, and maintain written procedures to ensure that poultry carcasses contaminated with septicemic and toxemic conditions do not enter the chiller. Establishments must incorporate these procedures into their HACCP plans, sanitation SOPs, or other prerequisite programs. The cost for developing these written procedures is accounted for in the costs given in section 10.a.

11. Elimination of Generic *E. coli* and Salmonella Standards—Annual Cost Savings Associated With the Mandatory Component of the Rule

FSIS is removing the current requirement that poultry establishments that slaughter more poultry than other species test for generic *E. coli.* Additionally, the agency is removing the codified *Salmonella* pathogen reduction performance standards for poultry because our existing *Salmonella* and *Campylobacter* performance standards are better able to contribute to food safety. We used the same assumptions for the cost of sampling as described above in section 9, with the exception of assuming the analytical cost for generic *E. coli* is $20 instead of $15.[34]

FSIS assumes the cost savings associated with eliminating the *Salmonella* performance standards are minimal, because typically establishments are sampled, on average, roughly once every two years; more than 95 percent of the sample sets' results satisfy FSIS's criteria; [35] and establishment-recording costs for FSIS sampling are minimal. Therefore, FSIS did not account for savings due to eliminating this requirement.

12. Elimination of Carcass Cooling Standards—Possible Cost Savings Associated With the Mandatory Component of the Rule

FSIS projects that the elimination of carcass cooling standards will remove some of the ''bottleneck'' restrictions of the chilling system. FSIS projects that the birds may take less time to cool to meet this new requirement of no microbial growth. FSIS projects that the establishments will be able to increase the output from the chiller in order to accommodate increased line speed.

[33] FSIS did not exclude HIMP establishments from this calculation, though FSIS believes that the cost for these establishments on average will be less. To the extent that this is true, the above estimate is high, given everything else being true.

[34] The cost of analyzing generic *E. coli* is greater than that of analyzing for Aerobic Plate Count (APC) because the former involves extra steps for identifying *E. coli* cells. Based on its experience with contracting, FSIS estimates that the analytical cost per sample for *E. coli* is about $5 more.

[35] U.S. Department of Agriculture. Food Safety and Inspection Service. (2011). Progress Report on Salmonella and Campylobacter Testing of Raw Meat and Poultry Products, 1998–2011. Washington, DC: U.S. Department of Agriculture. Retrieved from *http://www.fsis.usda.gov/PDF/Progress_Report_Salmonella_Testing_1998-2011.pdf#page=14.*

In the years 2009–2011, FSIS sent a yearly average of about 125 sample sets to establishments that slaughter young chicken and about 26 to establishments that slaughter turkey. Thus, per year, roughly 50 percent of the establishments received sample sets. Over 95 percent of the sets show results that are in compliance with the performance standard.

Total Costs and Cost Savings Associated With the Mandatory Component of the Rule

Table 7b shows the implementation costs of complying with the mandatory actions of the rule, over time, for the 289 affected poultry establishments. For the 70 establishments expected to transition to the modified Traditional Inspection System, FSIS assumed that half would convert in year four, and the remaining half would convert in year five, mirroring the implementation of the small young chicken and turkey plants converting to NPIS. Again, annualized costs are calculated using a discount rate of 7 percent over a ten year planning period.

TABLE 7b—ESTIMATED ANNUAL COST (COST SAVINGS) OF THE RULE TO ALL ESTABLISHMENTS FOR ELEMENTS ASSOCIATED WITH THE MANDATORY COMPONENT OF THE RULE

[Millions of dollars]

	Year 1	Recurring
Additional PC microbial testing:*		
One-time baseline	1.34	
Annual recurring testing	23.59	23.59
Annual recordkeeping, monitoring, and record storage	1.17	1.17
Eliminated generic *E. coli* testing recordkeeping	(0.59)	(0.59)
One-time HACCP system and Process Control (PC) plan development	1.89	
Reduced annual microbial testing—generic *E. coli*	(15.51)	(15.51)
Total costs to establishments from mandatory component	11.90	8.67
Annualized (10 year, 7% discount) total mandatory costs	9.10	
Annualized (10 year, 3% discount) total mandatory costs	9.04	

For the poultry industry, as shown in Table 7a, the annualized costs incurred if all establishments convert to NPIS are about $16.0 million over 10 years at a 7 percent discount rate. To comply with the mandatory component, the rule will cost establishments about $9.1 million over 10 years at a 7 percent discount rate. Net total costs to industry annualize to $25.1 million ($16.0 + $9.1).[36]

FSIS expects the 51 very small HACCP size establishments that slaughter young chicken and turkey and the three very small establishments that slaughter other poultry to adopt the modified Traditional Inspection System instead of NPIS. These establishments will only incur mandatory costs associated with items discussed above and listed in Table 7b. FSIS assumes a smaller analytical cost per sample for these establishments, and in some cases for establishments with large production volume, fewer numbers of samples.[37]

Table 7c lists estimated mandatory costs for the 54 very small HACCP size establishments. Estimated annualized costs to very small establishments are approximately $11,760, which is about $218 per establishment. This represents an average annual cost per bird of approximately 0.098 cents, or 0.025 cents per pound, based on the assumption that very small establishments slaughter about 12 million birds annually, at an average weight of about 4 pounds per bird.

TABLE 7c—ESTIMATED ANNUAL COST (COST SAVINGS) OF THE RULE TO VERY SMALL HACCP SIZE ESTABLISHMENTS (54) FOR ELEMENTS ASSOCIATED WITH THE MANDATORY COMPONENT OF THE NEW RULE

[Thousands of dollars]

	Year 1	Recurring
Additional PC microbial testing—plate counts, collection, packaging, shipping		
One-time baseline (including recordkeeping)	4.25	
Annual recurring testing	22.47	22.47
Annual recordkeeping, monitoring, and record storage	0.77	0.77
Eliminated generic *E. coli* testing recordkeeping	(0.77)	(0.77)
One-time HACCP system plans and Process Control (PC) plan development (item 11.a)	108.00	
Reduced annual microbial testing—generic *E. coli* plate counts	(25.64)	(25.64)
Total costs to establishments from mandatory component	109.07	(3.18)
Annualized total costs (7% for 10 years)	11.76	
Annualized total costs (3% for 10 years)	9.60	

Expected FSIS Budgetary Effects

Table 8 shows the potential FSIS budgetary net savings from the rule for the slaughter of all poultry other than ratites and including the NPIS for the slaughter of young chickens and turkeys.

FSIS used the following scenario assumptions to project the potential FSIS budgetary effects of the rule:

- Of the 219 establishments that may adopt the NPIS, an estimated 175 establishments (150 young chicken establishments and 25 turkey establishments) may be affected by FSIS

[36] These costs annualized to about $25.3 million over 10 years using a 3 percent discount rate.

[37] In the final rule, FSIS is permitting very small HACCP size establishments to sample at one location, post-chill. Moreover, FSIS is permitting very low volume establishments to sample at a frequency similar to what is required presently. FSIS expects cost per sample to decrease because FSIS is no longer requiring establishments to sample for generic *E. coli,* but is permitting establishments to sample for other indicator organisms that are less expensive to analyze and expected to be more predictive of food safety concerns.

personnel changes. The estimated 175 establishments do not include the 25 young chicken and turkey establishments currently operating under the HIMP program. FSIS also excluded approximately 19 other poultry establishments currently operating under the SIP waivers, even though FSIS expects them to choose to participate in the NPIS because FSIS expects the impact on these 19 establishments to be relatively small. Establishments that change operations but continue to produce will continue to have FSIS inspectors.

- 1,498 food inspector grade increases (from GS–7 to GS–8) (1,284 inspectors in young chicken establishments and 214 inspectors in turkey establishments)
- 241 relief inspector grade increases (GS–7 to GS–8) [38]
- FSIS is uncertain of the size of any reduction of food inspector positions through managing vacancy or refill rates. Some personnel are also expected to voluntarily retire. The range of potential reductions is 0 to 630 (see table 8b). For purpose of this analysis, FSIS includes the maximum potential change to calculate the maximum potential effect. Approximately 190 of the 630 inspector positions will be relocated to existing vacancies within the agency.
- FSIS is uncertain of the size of any reduction of approximately 140 Supervisory Consumer Safety Inspector (SCSI) positions. The range of potential reductions is 0 to 140 (see table 8b). For purpose of this analysis, FSIS includes the maximum potential change to calculate the maximum potential effect. Of those 140 SCSI personnel, approximately 112 will be relocated to existing vacancies within the agency with the remaining number expected to retire.
- Training costs to include training of promoted personnel and training for all personnel on the NPIS implementation processes.

TABLE 8—ESTIMATED POTENTIAL ANNUAL COST (COST SAVINGS) OF THE RULE TO FSIS: ELEMENTS ASSOCIATED WITH THE NEW POULTRY INSPECTION SYSTEM

[Millions of dollars]

Category	Year 1	Year 2	Year 3	Year 4	Year 5	Recurring
Cost from Grade Increases (Salary & Benefits)	$1.2	$3.5	$5.8	$7.0	$7.4	$7.6
Savings From Positions Eliminated	($5.2)	($16.9)	($28.6)	($36.1)	($38.1)	($39.0)
Training Costs	$2.0	$2.0	$2.0	$0.3	$0.3	$0.0
Relocation Costs	$1.4	$1.4	$1.4	$0.2	$0.2	$0.0
Total Cost (Savings)	($0.6)	($10.0)	($19.4)	($28.5)	($30.1)	($31.4)

Source: FSIS, Office of the Chief Financial Officer.

TABLE 8b—ESTIMATED POTENTIAL BUDGETARY EFFECTS TO FSIS BY ADOPTION RATE: ELEMENTS ASSOCIATED WITH THE NEW POULTRY INSPECTION SYSTEM

Category	Adoption Rate						
	0%	10%	25%	50%	75%	90%	100%
Food Inspector Grade Increases	.....	150	375	749	1,124	1,348	1,498
Relief Inspector Grade Increases	.....	24	60	121	181	217	241
Reduction in Food Inspector Positions	.....	63	158	315	473	567	630
Reduction in Supervisory Consumer Safety Inspectors	.....	14	35	70	105	126	140

FSIS expects a potential net cost savings of $0.6 million in the first year of implementation. FSIS expects potential net cost savings to total $10.0 million the second year of implementation. Cost savings from position elimination (potentially totaling $16.9 million) scale with the number of establishments that opt into NPIS and will therefore more than offset the increase in one-time costs the agency will incur the second year. Potential annual cost savings are expected to total $31.4 million after the fifth year. The Agency's potential annual costs for FSIS food and relief inspectors upgrades from GS–7 to GS–8 will increase to $7.6 million after the fifth year of adoption. These additional costs will be more than offset by the Agency's annual cost savings from position elimination, potentially totaling $39.0 million.

Expected Benefits Associated With the New Poultry Inspection System—Public Health Benefits From Reallocating FSIS Inspection Activities

FSIS hypothesizes that switching existing FSIS IPP activities towards more offline verification activities (such as sanitation performance standards, sampling, other inspection requirements, and fecal inspections) will reduce pathogen levels in poultry slaughter establishments. This is supported by the regression analysis of historical data presented in the FSIS Risk Assessment (July 2014), which found a significant correlation between more offline inspection activities and lower levels of *Salmonella* and *Campylobacter* in certain poultry products. It is possible that these reductions may lead to a corresponding reduction in illnesses.

In Table 5 of FSIS' Risk Assessment (July 2014), FSIS presents estimates that industry-wide adoption of NPIS would reduce the number of human illness attributed to young chicken and turkey products by an average of about 3,980 (with a range of 1,510 to 6,960) *Salmonella* illnesses and about 840 (with a range of 100 to 1,860) *Campylobacter* illnesses. Annual *Salmonella* cost savings from an averted

[38] Some inspection personnel will be promoted from GS–7 to GS–8 due to assuming higher graded duties. These new Carcass/Verification Inspector positions will perform routine and directed inspection verification tasks to evaluate the establishment's regulatory compliance and process control. The inspector collects samples for pathogen testing, performs certain sample analysis, and conducts post-mortem and ante-mortem inspection. The inspector also performs verifications of good commercial practices, zero tolerance for fecal and septicemia/toxemia, establishment microbiological testing for preventing contamination throughout operations, food safety systems, and sanitary dressing requirements.

case is estimated to be $2,423 [39] and the annual *Campylobacter* cost savings from an averted case is estimated to be $2,067.[40] Thus, FSIS estimates that the potential monetized value of the human illness reductions is an annual average of about $11.38 million (with a range of $3.87 million to $20.71 million). These estimates may underestimate the average cost of illness because they include medical costs and loss-of-productivity costs. They do not include pain and suffering costs or, in the case of *Salmonella,* the cost of accelerated mortality.

TABLE 9—TOTAL POTENTIAL REDUCTIONS IN HUMAN ILLNESSES OR ILLNESSES AVERTED AND PROJECTED COST SAVINGS DUE TO BETTER INSPECTION PROCEDURE PERFORMANCE IN YOUNG CHICKEN AND TURKEY SLAUGHTER ESTABLISHMENTS

	What happens if young chicken and turkey establishments have the anticipated increase in unscheduled offline inspection procedures?[1 2 3 4 5]		
		Range	
	Expected Value	10th Percentile	90th Percentile
Annual *Salmonella* Cost Savings [6] and Averted Illnesses:	$9.64 million (3,980 illnesses averted)	$3.66 million (1,510 illnesses averted)	$16.86 million. (6,960 illnesses averted).
Annual *Campylobacter* Cost Savings [7] and Averted Illnesses:	$1.74 million (840 illnesses averted)	$0.21 million (100 illnesses averted)	$3.84 million. (1,860 illnesses averted).
Annual Total Cost Savings	$11.38 million	$3.87 million	$20.71 million.

[1] The number of establishments in each size category throughout the economic analysis is different from the number used in the risk assessment. The risk assessment uses the most recent data for the correlation between baseline and inspection data (2008) and participating establishments, while the economic analysis uses 2010 size categories to reflect the most up-to-date size distribution.

[2] The reported expected reductions in illnesses represent the unscheduled inspection procedures scenario from the risk assessment. FSIS selected this scenario to represent expected reduction in illnesses because it involved an increase in targeted off-line inspection activities and not a random increase in all off-line inspection activities, as represented in the indiscriminate scenario.

[3] Totals may not add up due to rounding.

[4] These estimates represent a lower bound for an average cost of illness because they only include medical costs, loss-of-productivity costs (*Salmonella* and Campylobacter), and the value of reduced mortality (*Campylobacter* only). They do not include pain and suffering costs.

[5] FSIS explored—using a modified database—the effect of the very small plants on the output of the risk assessment. Specifically, it used additional regression modeling post-analysis to look at what impact the removal of very small establishments would have on the risk assessment results (see the risk assessment for further details). That post-analysis showed no discernible difference from inclusion of very small establishments in the changes in attributable human illnesses due to the poultry slaughter rule.

[6] The FSIS estimate for the average cost of *Salmonella* illnesses ($2,423 per case—2010 dollars) was developed using the USDA, ERS Foodborne Illness Costs Calculator: *Salmonella* (June-2011). FSIS updated the ERS calculator to include Scallan case distribution for *Salmonella.* Scallan, E., Hoekstra, R., Angulo, F., et.al. (2011). Foodborne Illness Acquired in the United States—Major Pathogens. *Emerging Infectious Diseases,* 17 (1), 7–15.

[7] The FSIS estimate for the average cost of *Campylobacter* illnesses ($2,067 per case—2009 dollars, the latest cost per illness data available) is based on Hoffman (2012). Annual Cost of Illness and QALY-Adjusted Life Year Losses in the United States Due to Fourteen Foodborne Pathogens. *Journal of Food Protection, 75*(7), 1292–1302. The ERS Cost calculator does not include an estimate for *Campylobacter* illnesses.

Potential annual benefits as shown in Table 9 would not be realized fully unless and until all establishments convert to NPIS. Since the adoption of NPIS may occur over a five year period, FSIS estimated the incremental public health benefits that would be achieved under this scenario as establishments make the transition to the new system. FSIS used approximate volume distributions [41] along with the assumed implementation timeline to calculate these estimates, displayed in Table 10.

TABLE 10—ESTIMATED INCREMENTAL PUBLIC HEALTH BENEFITS IF ALL LARGE AND SMALL NON-TRADITIONAL ESTABLISHMENTS ADOPT NPIS WITHIN 5 YEARS

	Year 1	Year 2	Year 3	Year 4	Recurring
Salmonella Cost Savings	2.89	5.78	8.68	9.16	9.64
Campylobacter Cost Savings and Incremental Longevity Value	0.52	1.04	1.57	1.65	1.74
Total Cost Savings and Incremental Longevity Value	3.41	6.83	10.24	10.81	11.38
10th Percentile	1.16	2.32	3.48	3.68	3.87
90th Percentile	6.21	12.42	18.63	19.67	20.70

	Expected value	10th Percentile	90th Percentile
Annualized total cost savings and Incremental Longevity Value (7% for 10 years)	9.56	3.25	17.39
Annualized total cost savings and Incremental Longevity Value (3% for 10 years)	9.79	3.33	17.81

[39] The FSIS estimate for the average cost of *Salmonella* illnesses ($2,423 per case—2010 dollars) was developed using the USDA, ERS Foodborne Illness Costs Calculator: *Salmonella* (June-2011). FSIS updated the ERS calculator to include Scallan case distribution for *Salmonella.* Scallan, E., Hoekstra, R., Angulo, F., et.al. (2011). Foodborne Illness Acquired in the United States—Major Pathogens. *Emerging Infectious Diseases,* 17 (1), 7–15.

[40] The FSIS estimate for the average cost of *Campylobacter* illnesses ($2,067 per case—2010 dollars) is based on Hoffman (2012). Annual Cost of Illness and QALY-Adjusted Life Year Losses in the United States Due to Fourteen Foodborne Pathogens. *Journal of Food Protection, 75*(7), 1292–1302. The ERS Cost calculator does not include an estimate for *Campylobacter* illnesses.

[41] See footnote 27.

Unquantifiable Benefits and Costs Associated With NPIS and the Mandatory Portion of the Rule—Public Health Benefits Resulting From Preventing Contamination of Carcasses and Parts by Enteric Pathogens and Fecal Material Throughout the Entire Slaughter and Dressing Operation

In addition to the benefits listed in the previous section, FSIS expects benefits associated with an increase in line speed for turkey establishments. Turkey establishments will have the option of increasing their line speed from a maximum of 51 to 55 birds per minute. Establishments will determine their line speeds based on their equipment and facilities, bird size and flock conditions, and their ability to maintain process control when operating at a given line speed.

FSIS also expects public health benefits from the mandatory component of the rule, which will apply to all poultry slaughter establishments. FSIS is requiring that all poultry slaughter establishments develop, implement, and maintain, as part of their HACCP plans, sanitation SOPs, or other prerequisite programs, written procedures to prevent contamination of carcasses and parts by enteric pathogens and fecal contamination throughout the entire slaughter and dressing operation. FSIS is requiring that, at a minimum, these procedures must include sampling and analysis for microbial organisms at the pre-chill and post-chill points in the process to monitor process control for enteric pathogens. The exceptions are for very small HACCP size establishments and very low volume establishments that choose to operate under the modified Traditional Inspection System for which FSIS will permit sampling at post-chill only if they show that testing at one location is sufficient. Effective sanitary dressing and process control procedures are crucial to an establishment's ability to produce a clean, safe, and wholesome product. The existing regulations require that establishments prevent poultry carcasses contaminated with visible fecal contamination from entering the chiller (9 CFR 381.65(a)). To enhance compliance with this requirement, FSIS is requiring that establishments develop, implement, and maintain written procedures that ensure that poultry carcasses contaminated with visible fecal material do not enter the chiller.

While preventing poultry carcasses contaminated with visible fecal material from entering the chiller is an important safeguard for reducing the prevalence of pathogens on poultry carcasses, this result generally cannot be effectively accomplished unless establishments implement appropriate measures to prevent contamination from occurring throughout the slaughter and dressing operation and implement process controls for them.

Although many establishments do have process control measures in place to prevent contamination of carcasses by enteric pathogens and fecal material throughout the slaughter and dressing process, they are not required to maintain written procedures that describe their measures and process controls or to maintain records to verify the effectiveness of their process controls in preventing contaminated carcasses from entering the chiller. Written plans that describe an establishment's procedures and controls, including monitoring and evaluation criteria, will greatly aid establishments in consistently ensuring compliance with preventing fecal material on carcasses from entering the chiller. The written plans and record keeping requirement of this rule will also aid FSIS's inspectors in evaluations of an establishment's procedures that are designed to ensure compliance with the regulations.

In addition, under the existing regulations, official poultry slaughter establishments are required to comply with requirements for testing for generic *E. coli* at the end of the chilling process as a means of verifying process control. As discussed earlier in this document, FSIS's experience with using post-chill testing for generic *E. coli* to monitor process control for fecal contamination and sanitary dressing has led the Agency to conclude that such testing might not be the most effective way to prevent contamination from occurring throughout the slaughter and dressing operation. Therefore, FSIS is removing the generic *E. coli* testing requirements and replacing them with a more microbiological-focused testing scheme that provides for testing at the pre-chill and post-chill locations. Such a testing scheme has the benefit of allowing poultry slaughter establishments to have the flexibility they need to determine which microbiological organisms and measurement procedures will best help them to monitor the effectiveness of their process control procedures. This will lead to more tailored, and thus more effective process monitoring and quicker response to out of control processing, thereby reducing contamination of pathogens on carcasses.

The information and procedural enhancements described above may be followed by the disposal of contaminated product, cooking the product longer, or other cost-generating actions by the establishment. Thus, any unquantified public health benefits of the rule may be accompanied by unquantified industry costs.

In summary, FSIS is requiring that establishments incorporate their procedures for preventing contamination of carcasses with enteric pathogens and fecal material into their HACCP systems, and that they maintain records sufficient to document the implementation and monitoring of their procedures. These records will improve the establishment's overall HACCP system by providing additional documentation that the establishment and FSIS can use to verify the effectiveness of the establishment's process control procedures. The records that would be required under this rule, including the records of the establishment's testing results, will provide an establishment with ongoing information on the effectiveness of its process controls, and allow it to identify situations associated with an increase in microbial levels so that it can take the necessary corrective actions to prevent further potential contamination. The documentation could result in the lower probability of recall, resulting in enhanced product reputation when a product is not subject to recall, which would benefit the implementing establishment. The rule's documentation requirements could also lower the costs of identifying contaminated product of a recall as well as limit the scope of a product recall should a recall occur, since the establishment records would allow it to identify the point when a lack of process control could have resulted in product contamination.

Summary of Net Benefits

Considering the benefits and costs discussed, if we were to assume for purposes of analysis that all small and large non-Traditional establishments were to switch to NPIS, FSIS expects average benefits to the public health and FSIS of about $32.4 million (annualized, 10-years at 7 percent). In this case, annualized (10-years, at 7 percent) industry costs are an estimated $25.1 million. Annual net benefits, therefore, would be an estimated $7.3 million. Table 11 provides the summary of estimated annualized net benefits for various possible percentages of the industry that switch to NPIS. As noted above, NPIS may provide an incentive for establishments to switch from their current inspection systems to NPIS; however, it is possible that the costs associated with NPIS adoption will be

greater than the potential benefits for some establishments. Given the lack of data with which to make cost-benefit comparisons across the industry, Table 11 presents a wide range of possibilities for the percentage of large and small non-Traditional establishments that will choose to adopt NPIS.

TABLE 11—ESTIMATED NET SOCIAL BENEFITS FROM THE RULE (MILLIONS OF DOLLARS), ANNUALIZED OVER 10 YEARS WITH A 7% DISCOUNT RATE, FOR VARYING PERCENT CHANGES THAT SWITCH TO NPIS

	Percentage of Industry that Switches to NPIS [1]						
	0%	10%	25%	50%	75%	90%	100%
NPIS: [2]							
Benefits:							
Public health benefits (10%, 90%)	0.0	1.0 (0.3 to 1.7)	2.4 (0.8 to 4.3)	4.8 (1.6 to 8.7)	7.2 (2.4 to 13.0)	8.6 (2.9 to 15.7)	9.6 (3.3 to 17.4)
FSIS net savings	0.0	2.3	5.7	11.4	17.1	20.5	22.8
Unquantified benefits [3]	Increased flexibility for establishments to design and implement production measures tailored to their operations, in some cases possibly including increased line speed up to 140 chickens or 55 turkeys per minute						
Costs:							
Costs to establishments	0.0	1.6	4.0	8.0	12.0	14.4	16.0
Unquantified costs [3]	Industry costs of responding to new NPIS inspections in a manner that may lead to public health benefits (e.g., discarding contaminated food or cooking it longer)						
Mandatory Component:							
Costs to establishments	9.1	9.1	9.1	9.1	9.1	9.1	9.1
Unquantified benefits	Potential additional public health benefits from documentation and testing						
Unquantified costs	Industry costs of responding to information generated by documentation and testing in a manner that may lead to public health benefits (e.g., discarding contaminated food or cooking it longer)						
Total benefits (10%, 90%)	0.0	3.3 (2.6 to 4.0)	8.1 (6.5 to 10.0)	16.2 (13.0 to 20.1)	24.3 (19.5 to 30.1)	29.1 (23.4 to 36.2)	32.4 (26.0 to 40.2)
Total costs	9.1	10.7	13.1	17.1	21.1	23.5	25.1
Net benefits (10%, 90%)	−9.1	−7.4 (−8.1 to −6.7)	−5 (−6.6 to −3.1)	−0.9 (−4.1 to 3.0)	3.2 (−1.6 to 9.0)	5.6 (−0.1 to 12.7)	7.3 (0.9 to 15.1)

[1] For costs and FSIS net savings, the relevant industry measure is the percentage of large and small establishments that switch to NPIS, whereas for public health benefits, the relevant industry measure is percentage of product volume that is slaughtered in establishments that switch to NPIS.

[2] The switch to NPIS includes two sets of policy changes: (1) the removal of some online FSIS inspectors, which generates labor cost savings for NPIS, costs to industry of training and attestation, and the unquantified benefit to establishments of increased flexibility, and (2) the increase in offline inspection activities by FSIS, which generates the estimated public health improvements, the associated unquantified costs, the quantified costs to industry of installing new inspection stations, and the quantified costs to FSIS of grade increases, training and relocation.

[3] As with quantified costs and benefits, unquantified NPIS-related cost and benefit estimates would be scaled proportionately to reflect the percentage of the industry that switches to NPIS.

4 Annualized Over 10 Years with a 3% discount rate at 100% adoption rate, total benefits (10%, 90%) equal $33.6 million (27.1 to 41.6), total costs equal $25.3 million. Net benefits equal $8.3 million (1.8 to 16.3).

Analysis of Considered Alternatives

TABLE 13—COMPARISONS OF THE CONSIDERED ALTERNATIVES TO THE FINAL POULTRY SLAUGHTER RULE

Considered alternatives	Benefits	Costs [1]	Net benefits
A. Taking No Action	No change in the existing inspection systems for poultry. FSIS does not need significantly more resources.	Establishments would maintain existing practices.	Zero Net Benefits.
B. The Rule	Public health benefits from reduced illnesses and FSIS savings add to total benefits of $26.0 million to $40.2 million annually. Additional unquantified public health benefits from NPIS and mandatory components of the rule.	Annualized costs equal $25.1 million. See Tables 7a and 7b above for explanation of these costs.	Selected Alternative with annualized net benefits equal $7.3 million.
C. The Final Rule Without Offline Inspection Activity.	Additional FSIS cost savings associated with a reduction in offline inspector positions.	Annualized costs equal to Alternative B.	Net benefits will be lower than Alternative B due to loss of public health benefits.

TABLE 13—COMPARISONS OF THE CONSIDERED ALTERNATIVES TO THE FINAL POULTRY SLAUGHTER RULE—Continued

Considered alternatives	Benefits	Costs [1]	Net benefits
D. Requiring Only the New Poultry Inspection System.	Public health benefits from reduced illnesses and FSIS savings add to total benefits of $26.1 million to $40.2 million annually No additional unquantified benefits, as detailed in section titled ''Unquantifiable Benefits Associated with the Mandatory Portion of the Rule.''.	Annualized costs greater than $20.5 million. All establishments not included in Alternative B will accrue additional costs.	The net benefits will be lower than Alternative B due to the increased burden on very small establishments.

A. Taking No Action

FSIS considered maintaining the current inspection system and finished product standards requirements for the 289 establishments that slaughtered young chickens and turkeys, and other poultry in 2010. FSIS rejected this alternative because the NPIS will allow poultry establishments slaughtering young chickens, turkeys and other poultry to benefit and to enhance their food safety efforts through increased flexibility and opportunity for innovation. FSIS would not be able to focus its inspection activities on verification of process controls for product safety and OCPs or on additional offline activities (such as unscheduled sanitary procedures, for example). Therefore this alternative would not result in any public health benefits. This action will have zero net benefits.

B. The Rule

FSIS's preferred alternative is the final rule as discussed above. The final rule has an elective NPIS for young chickens and turkeys; a modified Traditional Inspection System for all poultry other than ratites; requirements that establishments develop, implement, and maintain written procedures to prevent contamination of carcasses with enteric pathogens and fecal material contamination, and that these procedures include, at a minimum, two locations for sampling for microbial organisms to monitor process control for enteric pathogens (except HACCP very small and very low volume establishments); and other actions (see Table 2).

The rule gives the individual establishment the choice between the NPIS (with or without the HIMP SIP waiver), the modified Traditional Inspection System, and their current inspection system (SIS, NELS, or NTIS). An establishment will choose the NPIS if the benefits, primarily from the expected increased flexibility of operations, exceed the costs of implementation. While this would probably be true for the HACCP large and HACCP small establishments that slaughter young chickens and turkeys, it may not be true for the HACCP very small establishments. FSIS selected this alternative to minimize the impact on very small establishments and to allow them the flexibility to choose the modified Traditional Inspection System or their current inspection system if they stand to lose from the NPIS.

Public health benefits (as discussed in section titled ''Expected Benefits Associated with the NPIS—Public Health Benefits from Reallocating FSIS Inspection Activities'') of the rule include a reduction in illnesses attributed to young chicken and turkey. The monetized annualized value of this reduction is $3.3 million to $17.4 million. FSIS annualized savings under the rule are expected to equal $22.8 million.

Costs of the rule include $16.0 million annualized for the conversion of establishments to NPIS, and $9.1 million annualized (10 years, 7 percent) for the mandatory component of the rule (see Tables 7a and 7b). This corresponds to total costs of about $25.1 million annualized. Net benefits of the rule are estimated at $7.3 million.

C. The Rule Without Offline Inspection Activities

Removing the offline inspectors would eliminate the health benefits of the rule which is the main purpose of the rule. While removing offline inspectors might affect the savings for FSIS, the Agency could not estimate any additional savings at this time because the offline inspectors were part of an integrated inspections plan so the offline inspectors could not be pulled out of the plan or the estimate. More importantly, any changes to FSIS savings would be insignificant compared to the loss of public health benefits.

D. Requiring the New Poultry Inspection System

FSIS considered requiring that all establishments convert to the NPIS. The benefits from this alternative include, as under the rule, the budgetary savings to FSIS from reallocation of personnel and public health benefits of $9.6 million annually from reduced illnesses.

As shown in Table 7a, costs to firms that adopt the new rule are about $16.0 million annualized over 10 years at 7 percent.

Under this alternative, all firms, including the very small firms that FSIS expects will not adopt the rule, must adopt some measures, as listed in Table 7b. These costs are from plan development, recordkeeping and testing. The benefits [42] of these activities include the conduct of business in a manner more accountable to the public; the support and documentation of production safety decision-making; and the facilitation of oversight and transparency activities like audits and inspections. The recordkeeping requirements are designed to help operators of facilities and the Agency to identify potential sources of contamination as well as contain and mitigate the adverse health effects of contaminated food. Many of these benefits are unquantifiable: the lower probability of recall, the lower costs of identifying contaminated product if a recall occurs, and enhanced product reputation when a product is not subject to recall, all benefit the implementing firms. Table 7c lists the mandatory costs that FSIS expects for the 54 very small establishments that FSIS projects will not adopt the new inspection system.

This alternative would result in higher costs for the industry, specifically for very small establishments that would have difficulty absorbing such costs. The annual benefits would be the same as alternative B, the rule. FSIS rejected this

[42] Please see the FDA's preliminary regulatory impact analysis of the Preventive Controls rule for a similar discussion of recordkeeping benefits.

alternative because it would result in lower net benefits.

V. Final Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, FSIS reviewed the rule for its effects on small businesses. In response to public comments received on the impact on small business, FSIS relaxed the proposed requirement for small businesses to sample and test at pre-chill and post-chill to allow very small HACCP size establishments to sample and test only at post-chill. In addition, FSIS is maintaining its present sampling frequency requirement for very low volume establishments. This change reduces the costs imposed on small establishments. The FSIS Administrator certifies that, for the purposes of the Regulatory Flexibility Act (5 U.S.C. 601–602), this rule will not have a significant economic impact on a substantial number of small entities in the United States.

In this final regulatory flexibility analysis, FSIS first analyzes the impact on the Agency-assigned HACCP small and very small size categories. Then, FSIS highlights the minimal impact of the regulation on very small and small companies.

FSIS will modernize and streamline poultry slaughter inspection because of its 2011 regulatory review. The Agency is taking this action to improve food safety and the effectiveness of poultry slaughter inspection systems, remove unnecessary regulatory obstacles to innovation, and make better use of the Agency's resources.

In this final regulatory flexibility analysis, FSIS uses a definition of small entities that is similar, but not identical, to that used by the Small Business Administration [43] and is more appropriate with respect to estimating possible adverse economic effects. The Small Business Administration defines a small business in terms of ownership, while the HACCP production size definition [44] applies to individual establishments and not companies that might own more than one establishment. FSIS considers establishments to be the economic entity of interest in this rule and thus uses the HACCP size definition to characterize establishments that this rule might affect adversely.

FSIS considered requiring the mandatory use of dressing performance standards and the NPIS in all federally inspected establishments that slaughter young chickens and turkeys, but rejected that alternative in order to provide small and very small HACCP size establishments with a choice between using the NPIS, or using the modified Traditional Inspection System. Given a choice, FSIS anticipates that large and small HACCP size establishments that slaughter young chickens and turkeys will find it in their economic interest to adopt the new inspection system. In contrast, FSIS anticipates that HACCP very small establishments that slaughter young chickens and turkeys will choose to operate under the modified Traditional Inspection System. The very small HACCP size young chicken and turkey establishments, in general, do not have sufficient output volume over which to spread the initial set-up costs of the NPIS or the training and maintenance costs resulting from this system. There are 51 such establishments. In addition, HACCP establishments that slaughter poultry other than young chickens and turkeys will operate under the modified Traditional Inspection System. There are 19 establishments that slaughter poultry other than young chickens and turkeys, of which 14 are small HACCP size establishments and three are very small HACCP size establishments. Consequently, we identify 68 establishments that might not realize the full benefits of the rule. Table 14 shows the number of poultry slaughter facilities by HACCP size and type of poultry slaughtered based on the above discussion.

TABLE 14—SUMMARY OF HACCP ESTABLISHMENT SIZE OF THE 289 OFFICIAL ESTABLISHMENTS THAT SLAUGHTERED ALL POULTRY UNDER FEDERAL INSPECTION IN 2010 (FSIS ADRS, 2010)

Type of Operation	Very small	Small	Large	Total	Percent of all establishments
Young Chicken and Turkeys	51	70	149	270	93
Other Poultry	3	14	2	19	7
Total	54	84	151	289	100

In Table 15, in contrast to Table 15, FSIS classified the 289 establishments into the appropriate SBA categories in order to show the establishment distribution over SBA small and large companies by number of companies and number of establishments.

TABLE 15—DISTRIBUTION OF ESTABLISHMENTS OVER SBA DEFINED SMALL AND NOT-SMALL COMPANIES

Company size (SBA definition)	Number of companies	Number of establishments	Share of establishments
Small	109	110	38%
Large	49	179	61%
Total	158	289	100%

Approximately 38 percent, or 110, of all establishments belong to SBA small companies. Some of the SBA companies are not very low volume slaughter operations and FSIS expects many will choose to operate under NPIS.

[43] The Small Business Administration defines a small business in poultry processing as an entity that is independently owned and operated, is organized for profit, is not dominant, and has 500 or fewer employees.

[44] HAACP production size classes: large establishments, with 500 or more employees; small establishments, with 10–499 employees; and very small establishments, with fewer than 10 employees or annual sales of less than $2.5 million.

Consequently, to measure possible adverse impact on small business, FSIS's analysis concentrates on the 68 establishments identified above.

Cost Impact—Very Small Establishments

FSIS projects the costs of the mandatory component of the rule to be approximately $218, annualized over 10 years at a 7 percent discount rate, per very small HACCP size establishment processing young chickens, turkeys, or other types of poultry, for a total of about $11,759 annualized annualized across the existing 54 very small establishments (Table 7c). FSIS expects net annual recurring cost savings after the sixth year, because the rule permits these establishments to design more efficient process control plans, and sample only at one location. The cost savings associated with eliminating generic *E. coli* testing will more than offset the additional costs associated with the new required microbial testing requirement because the cost of analyzing for generic *E. coli* is more than that of analyzing for other indicator organisms and FSIS does not expect the number of samples per year to increase from the present.

Cost Impact—Small Establishments

For the 14 small HACCP size poultry slaughter establishments covered in this rule that do not process young chickens and turkeys, FSIS projects costs of the mandatory component of the rule to be approximately $11,579, annualized 10 years at a 7 percent discount rate, per establishment, for a total of about $162,100 annualized across all 14 establishments. Net annual recurring costs are approximately $10,319 per establishment after the sixth year, for a total of $144,470 across all 14 small establishments.

Cost Impact—Total

Table 16 presents the combined cost impact for both very small HACCP size establishments (Table 7c) and small HACCP size establishments that do not slaughter young chickens and turkeys.

TABLE 16—ESTIMATED ANNUAL COST (OR COST SAVINGS) OF THE RULE FOR VERY SMALL HACCP SIZE ESTABLISHMENTS THAT PRODUCE YOUNG CHICKENS AND TURKEYS AND SMALL HACCP SIZE ESTABLISHMENTS THAT SLAUGHTER POULTRY OTHER THAN YOUNG CHICKENS AND TURKEYS

HACCP size	Number of establishments	Year 1	Recurring	10 Year annualized	
				7%	3%
Very Small	54	$109,069	($3,177)	$11,759	$9,599
Small	14	$276,960	$144,470	$162,100	$159,549
Total	68	$386,029	$141,293	$173,859	$169,148

VI. Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. When this final rule is adopted: (1) All State and local laws and regulation that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties ay file suit in court challenging this rule.

VII. E-Government Act

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

VIII. Executive Order 13175

This final rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

IX. USDA Non-Discrimination Statement

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

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

Mail

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

Fax

(202) 690–7442.

Email

program.intake@usda.gov.

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

X. Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the new information collection requirements included in this final rule have been submitted for approval to the Office of Management and Budget (OMB).

Title: Poultry Slaughter Inspection.

Type of Collection: New.

Abstract: Under this final rule, each official poultry slaughter establishment will need to maintain as part of its HACCP plan, sanitation SOP, or other prerequisite program, written procedures addressing (1) the prevention throughout the entire slaughter and dressing operation, of contamination of carcasses and parts by enteric pathogens (e.g., *Salmonella* and *Campylobacter*) and by fecal material, and (2) the prevention of carcasses and parts contaminated by visible fecal material from entering the chiller. Each

establishment operating under the New Poultry Inspection System (NPIS) will also be required to maintain, as part of its HACCP system, written procedures to prevent carcasses afflicted with septicemia and toxemia from entering the chiller. The procedures addressing prevention of contamination by enteric pathogens will need to include microbial testing. In addition, each establishment operating under NPIS will need to maintain records that document that the products resulting from its slaughter operations meet the definition of ready-to-cook poultry. Each establishment operating under the NPIS will also need to submit on an annual basis an attestation to the management member of the local FSIS circuit safety committee stating that it maintains a program to monitor and document any work-related conditions of establishment workers.

The requirement that poultry slaughter establishments have written procedures in their HACCP plans, sanitation SOPs, or prerequisite programs is already covered under an approved information collection, Pathogen Reduction/Hazard Analysis and Critical Control Point Systems (OMB control number 0583–0103). Therefore, this requirement of this rule creates no new burden on establishments.

The requirement that poultry slaughter establishments monitor their systems through microbial testing and recordkeeping creates a new information collection burden. For each sample for which a microbial test is conducted, there are two ''responses'' for the establishment: one response for the actual collecting of the sample and sending it to the laboratory for analysis, and the other for recording the sample result. In its initial paperwork burden estimate, FSIS estimated that large establishments would test and record microbial results at the two prescribed locations (pre- and post-chill), 15 times a day; small establishments, 7 times a day; and very small establishments, 3 times a day. These estimates were based on the frequency with which establishments operating under a Salmonella Initiative Program (SIP) waiver conduct sampling. Under SIP, FSIS grants establishments a waiver of regulations under the condition that the establishment collects and analyzes samples for microbial organisms and shares the results with FSIS.

In this final rule, FSIS has revised the regulations to prescribe a minimum frequency with which all establishments that slaughter poultry will need to conduct testing for microbial organism to monitor their process control procedures. FSIS has also revised the testing requirements to allow very small and very low volume establishments to conduct sampling at the post-chill point in the process only. These revisions are substantive changes that have resulted in a reduction in burden. Therefore, FSIS has updated its paperwork burden estimates to reflect these changes and has submitted the revised information and recordkeeping requirement to OMB for review.

The average burden per response and the annual burden hours are explained below and summarized in the charts which follow.

Estimated Annual Burden: Poultry Slaughter Inspection.

Recordkeeping:

Estimated Annual Recordkeeping Burden for Modernization of Poultry Slaughter Inspection

Respondents: Official poultry establishments.

Estimated Number of Respondents: 289.

Estimated Average Annual Number of Responses (samples) per Respondent: Large establishments 4,322.7; small establishments 1,318; very small establishments 21.3.

Estimated Total Annual Responses: 764,594.

Estimated Total Annual Recordkeeping Burden: 31,858 hours.

Respondents		Estimated number of respondents	Average annual number of responses per respondent	Total annual responses	Time per response in minutes	Total annual burden hours
Large establishments	Microbial testing data record-keeping.	151	4,322.7	652,773	2.5	21,197
Small establishments	Microbial testing data record-keeping.	84	1,318	110,712	2.5	4,613
Very small establishments	Microbial testing data record-keeping.	54	21.3	1,134	2.5	48
Total Recordkeeping Burden		289	2,645.6	764,594	2.5	31,858

Reporting

Estimated Annual Reporting Burden for Poultry Slaughter Inspection

Respondents for this Rule: Official poultry establishments.

Estimated Number of Respondents: 289.

Estimated Average Annual Number of Responses per Respondent: Large establishments 4,322.7; small establishments 1,318; very small etablishments 21.3.

Estimated Total Annual Responses: 764,594.

Estimated Total Annual Reporting Burden on Respondents: 159,339 hours.

Respondents		Estimated number of respondents	Average annual number of responses per respondent	Total annual responses	Time per respone in minutes	Total annual burden hours
Large establishments	Microbial testing	151	4,322.7	652,773	12.5	135,986
Small establishments	Microbial testing	84	1,318	110,712	12.5	23,065
Very small establishments	Microbial testing	54	21.3	1,134	15	288

Respondents		Estimated number of respondents	Average annual number of responses per respondent	Total annual responses	Time per respone in minutes	Total annual burden hours
Total Reporting Burden	.....	289	2,645.6	764,594	.....	159,339

SUMMARY OF BURDEN—POULTRY SLAUGHTER INSPECTION

Total No. respondents	289
Average Annual No. responses per respondent ...	5,291.3
Total annual responses	1,529,188
Average hours per response	.125
Total annual burden hours ...	191,197

In this final rule, FSIS is adding a new regulation that creates a new information collection burden, in that it requires that poultry slaughter establishments operating under the NPIS submit on an annual basis an attestation to the management member of the local FSIS circuit safety committee stating that it maintains a program to monitor and document any work-related conditions of establishment workers. This is a new recordkeeping requirement that FSIS has submitted to OMB for approval.

The average burden per response and the annual burden hours are explained below and summarized in the charts which follow.

Estimated Annual Burden: Poultry Slaughter Inspection

Reporting:

Estimated Annual Reporting Burden for Submitting an Annual Attestation on Work-Related to the FSIS Circuit Safety Committee

Respondents: Official poultry establishments that operate under the NPIS.

Estimated Maximum Number of Potential Respondents: 219.

Estimated Average Annual Number of Responses per Respondent: Large establishments 1; small establishments 1; very small establishments 0.

Estimated Maximum Total Potential Annual Responses: 219.

Estimated Total Annual Recordkeeping Burden: 7.27 hours.

Maximum potential respondents: establishments operating under the NPIS		Estimated number of potential respondents	Average annual number of responses per potential respondent	Total annual potential responses	Time per potential response in minutes	Total potential annual burden hours
Large establishments	Attestation on Work-Related Conditions.	149	1	149	2	4.97
Small establishments	Attestation on Work-Related Conditions.	70	1	70	2	2.3
Very small establishments	.....	0	0	0	.....	0
Total Reporting Burden	.....	219	1	219	.....	7.27

Copies of this information collection assessment can be obtained from Gina Kouba, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 1400 Independence Ave. SW., Room 6065 South Building, Washington, DC 20250–3700; (202) 720–5627.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection 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.

Comments on the proposed information collection may be sent to both Gina Kouba, Paperwork Reduction Act Coordinator, at the address provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253. To be most effective, comments should be sent to OMB within 60 days of the publication date of this final rule.

XI. Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that the public and in particular minorities, women, and persons with disabilities, are aware of this final rule, FSIS will announce it online through the FSIS Web page located at *http://www.fsis.usda.gov/regulations_&_policies/Final_Rules/index.asp.*

FSIS also will make copies of this **Federal Register** publication available through the *FSIS Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Update* is communicated via Listserv, a free email subscription service consisting of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The *Update* also is available on the FSIS Web page. Through Listserv and the Web page, FSIS is able to provide information to a much broader, more diverse audience.

In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at

http://www.fsis.usda.gov/news_&_events/email_subscription/. Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

List of Subjects

9 CFR Part 381

Poultry inspection, Poultry products, Reporting and recordkeeping requirements.

9 CFR Part 500

Administrative practice and procedure, Meat inspection, Poultry and poultry products.

For the reasons stated in the preamble, FSIS is amending 9 CFR Chapter III as follows:

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

■ 1. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138f, 450; 21 U.S.C. 451–470; 7 CFR 2.7, 2.18, 2.53.

■ 2. Amend § 381.36 by adding a new paragraph (f) to read as follows:

§ 381.36 Facilities required.

* * * * *

(f) *Facilities for post-mortem inspection under the New Poultry Inspection System.* The following facilities requirements apply to establishments operating under the New Poultry Inspection System and are in addition to the requirements for obtaining a grant of inspection.

(1) The following provisions apply to the online carcass inspection station:

(i) On each production line, at a point before the chiller and after the establishment has completed all sorting, trimming, and reprocessing activities necessary to comply with § 381.76(b)(6)(ii), at least 4 feet of floor space along the conveyor line must be provided for one online carcass inspection station.

(ii) The conveyor line must be level for the entire length of the online carcass inspection station. The vertical distance from the bottom of the shackles to the top of the platform (paragraph (f)(1)(iii) of this section) must not be less than 60 inches.

(iii) Each online carcass inspection station must have a platform that is slip-resistant and can be safely accessed by the inspector. The platform must be designed so that it can be easily and rapidly adjusted for a minimum of 14 inches vertically while standing on the platform. The platform must be a minimum length of 4 feet and have a minimum width of 2 feet. The platform must be designed with a 42-inch high rail on the back side and with ½-inch foot bumpers on both sides and front to allow safe working conditions. The platform must have a safe lift mechanism and be large enough for the inspector to sit on a stool and to change stations during breaks or station rotation.

(iv) Conveyor line stop/start switches must be located within easy reach of the online carcass inspector.

(v) A minimum of 200 foot-candles of shadow-free lighting with a minimum color rendering index value of 85 must be provided where the birds are inspected to facilitate online carcass inspection.

(vi) Hand rinsing facilities must be provided for use by and within easy reach of the online carcass inspector. The hand rinsing facilities must have a continuous flow of water or be capable of being immediately activated and deactivated in a hands-free manner, must minimize any splash effect, and must otherwise operate in a sanitary manner that prevents contamination of carcasses and inspector clothing. The hand rinsing facilities must provide water at a temperature between 65 and 120 degrees Fahrenheit.

(vii) A separate clipboard holder for holding recording sheets must be provided for and within easy reach of the online carcass inspector.

(viii) Receptacles for condemned carcasses and parts that comply with the performance standards in § 416.3(c) of this chapter must be provided at each online carcass inspection station.

(ix) Hangback racks designed to hold at least 10 carcasses must be provided and positioned within easy reach of the online carcass inspector.

(x) A buzzer shall be located within easy reach of the online carcass inspector to be used by the carcass inspector to alert the inspector-in-charge, offline inspectors, or establishment management of conditions that require their attention.

(2) The following provisions apply to pre-chill and post-chill offline verification inspection stations:

(i) One or more offline verification inspection stations must be located at the end of the line or lines prior to the chiller. One or more offline verification inspection stations must also be located after the chiller or chillers. The Agency will determine the total number of offline verification inspection stations needed in establishments having more than one processing line or more than one chiller.

(ii) Floor space for all offline verification inspection stations must consist of a minimum of 3 feet along each conveyor line and after each chiller, as applicable, to allow carcasses to be removed for evaluation by the verification inspector. The space must be level and protected from all traffic and overhead obstructions.

(iii) At the pre-chill location, the vertical distance from the bottom of the shackles to the floor must not be less than 48 inches.

(iv) At each offline verification inspection station, a table designed to be readily cleanable and drainable must be provided for offline verification inspectors to conduct offline verification activities. At turkey slaughter establishments, the table must be at least 3 feet wide, 2 feet deep, and 3 feet high. At all other poultry slaughter establishments, the table must be at least 2 feet wide, 2 feet deep, and 3 feet high

(v) A minimum of 200 foot-candles of shadow-free lighting with a minimum color rendering index of 85 on the table surface must be provided.

(vi) The establishment must provide a separate clipboard holder for holding recording sheets; or alternatively, the establishment may provide electronic means for the offline verification inspector to record inspection results.

(vii) Hangback racks designed to hold at least 10 carcasses must be provided and positioned within easy reach of the offline verification inspector.

(viii) Hand washing facilities must be provided within easy access of all offline verification inspection stations.

(3) Each young chicken establishment operating under the New Poultry Inspection System must provide a location at a point along the production line after the carcasses are eviscerated at which an inspector may safely and properly inspect for leukosis the first 300 carcasses of each flock together with associated viscera either uniformly trailing or leading, or otherwise identified with the corresponding carcass. The leukosis inspection area must provide a minimum of 200 foot-candles of shadow-free lighting on the surface where the viscera are inspected.

(4) A trough or other similar drainage facility must extend beneath the conveyor at all places where processing operations are conducted from the point where the carcass is opened to the point where trimming has been performed. The trough must be of sufficient width to preclude trimmings, drippage, and debris from accumulating on the floor or platforms. The clearance between suspended carcasses and the trough

must be sufficient to preclude contamination of carcasses by splashing.

■ 3. A new subpart H is added to part 381 to read as follows:

Subpart H—Attestation on Work-Related Conditions

Sec.
381.45 Attestation requirements.
381.46 Severability.

§ 381.45 Attestation requirements.

Each establishment that participates in the New Poultry Inspection System (NPIS) shall submit on an annual basis an attestation to the management member of the local FSIS circuit safety committee stating that it maintains a program to monitor and document any work-related conditions of establishment workers, and that the program includes the following elements:

(a) Policies to encourage early reporting of symptoms of injuries and illnesses, and assurance that it has no policies or programs in place that would discourage the reporting of injuries and illnesses.

(b) Notification to employees of the nature and early symptoms of occupational illnesses and injuries, in a manner and language that workers can understand, including by posting in a conspicuous place or places where notices to employees are customarily posted, a copy of the FSIS/OSHA poster encouraging reporting and describing reportable signs and symptoms.

(c) Monitoring on a regular and routine basis of injury and illness logs, as well as nurse or medical office logs, workers' compensation data, and any other injury or illness information available.

§ 381.46 Severability.

Should a court of competent jurisdiction hold any provision of this part 381, subpart H to be invalid, such action shall not affect any other provision of this part 381.

■ 4. Amend § 381.65 as follows:

■ a. Redesignate paragraphs (e) and (f) as paragraphs (f) and (e) respectively.

■ b. Revise newly redesignated paragraph (f).

■ c. Add new paragraphs (g) and (h).

The revisions and additions read as follows:

§ 381.65 Operations and procedures, generally.

* * * * *

(f) *Procedures for controlling visible fecal contamination.* Official poultry slaughter establishments must develop, implement, and maintain written procedures to ensure that poultry carcasses contaminated with visible fecal material do not enter the chiller. Establishments must incorporate these procedures into their HACCP plans, or sanitation SOPs, or other prerequisite programs.

(g) *Procedures for controlling contamination throughout the slaughter and dressing operation.* Official poultry slaughter establishments must develop, implement, and maintain written procedures to prevent contamination of carcasses and parts by enteric pathogens and fecal contamination throughout the entire slaughter and dressing operation. Establishments must incorporate these procedures into their HACCP plans, or sanitation SOPs, or other prerequisite programs. At a minimum, these procedures must include sampling and analysis for microbial organisms in accordance with the sampling location and frequency requirements in paragraphs (g)(1) and (2) of this section to monitor their ability to maintain process control.

(1) *Sampling locations.* Establishments, except for very small establishments operating under Traditional Inspection or very low volume establishments operating under Traditional Inspection must collect and analyze samples for microbial organisms at the pre-chill and post-chill points in the process. Very small establishments operating under Traditional Inspection and very low volume establishments operating under Traditional Inspection must collect and analyze samples for microbial organisms at the post-chill point in the process.

(i) Very small establishments are establishments with fewer than 10 employees or annual sales of less than $2.5 million.

(ii) Very low volume establishments annually slaughter no more than 440,000 chickens, 60,000 turkeys, 60,000 ducks, 60,000 geese, 60,000 guineas, or 60,000 squabs.

(2) *Sampling frequency.* (i) Establishments, except for very low volume establishments as defined in paragraph (g)(1)(ii) of this section, must, at a minimum, collect and analyze samples at a frequency proportional to the establishment's volume of production at the following rates:

(A) *Chickens.* Once per 22,000 carcasses, but a minimum of once during each week of operation.

(B) *Turkeys, ducks, geese, guineas, and squabs.* Once per 3,000 carcasses, but at a minimum once each week of operation.

(ii) Very low volume establishments as defined in paragraph (g)(1)(ii) of this section must collect and analyze samples at least once during each week of operation starting June 1 of every year. If, after consecutively collecting 13 weekly samples, a very low volume establishment can demonstrate that it is effectively maintaining process control, it may modify its sampling plan.

(iii) Establishments must sample at a frequency that is adequate to monitor their ability to maintain process control for enteric pathogens. Establishments must maintain accurate records of all test results and retain these records as provided in paragraph (h) of this section.

(h) *Recordkeeping requirements.* Official poultry slaughter establishments must maintain daily records sufficient to document the implementation and monitoring of the procedures required under paragraph (g) of this section. Records required by this section may be maintained on computers if the establishment implements appropriate controls to ensure the integrity of the electronic data. Records required by this section must be maintained for at least one year and must be accessible to FSIS.

■ 5. Amend § 381.66 as follows:

■ a. Revise paragraph (b).

■ b. Remove paragraphs (c)(3) and (4).

■ c. Revise paragraph (e).

The revisions read as follows:

§ 381.66 Temperatures and chilling and freezing procedures.

* * * * *

(b) *Chilling performance standards, except for ratites.* (1)(i) Each official poultry slaughter establishment must ensure that all poultry carcasses, parts, and giblets are chilled immediately after slaughter operations so that there is no outgrowth of pathogens, unless such poultry is to be frozen or cooked immediately at the official establishment.

(ii) Previously chilled poultry carcasses and major portions must be kept chilled so that there is no outgrowth of the pathogens, unless such poultry is to be packed and frozen immediately at the official establishment.

(2) After product has been chilled, the establishment must prevent the outgrowth of pathogens on the product as long as the product remains at the establishment.

(3) The establishment must develop, implement, and maintain written procedures for chilling that address, at a minimum, the potential for pathogen outgrowth, the conditions affecting carcass chilling, and when its chilling process is completed. The establishment must incorporate these procedures into

its HACCP plan, or sanitation SOP, or other prerequisite program.

* * * * *

(e) *Air chilling.* Air chilling is the method of chilling raw poultry carcasses and parts predominately with air. An antimicrobial intervention may be applied with water at the beginning of the chilling process, provided that its use does not result in any net pick-up of water or moisture during the chilling process. The initial antimicrobial intervention may result in some temperature reduction of the product, provided that the majority of temperature removal is accomplished exclusively by chilled air.

* * * * *

■ 6. Add § 381.69 to subpart I to read as follows:

§ 381.69 Maximum line speed rates under the New Poultry Inspection System.

(a) The maximum line speed for young chicken slaughter establishments that operate under the New Poultry Inspection System is 140 birds per minute.

(b) The maximum line speed for turkey slaughter establishments that operate under the New Poultry Inspection System is 55 birds per minute.

(c) Notwithstanding paragraphs (a) and (b) of this section, establishments that operate under the New Poultry Inspection System must reduce their line speed as directed by inspectors-in-charge. Inspectors-in-charge are authorized to direct establishments to operate at a reduced line speed when in their judgment a carcass-by-carcass inspection cannot be adequately performed within the time available due to the manner in which the birds are presented to the online carcass inspector, the health conditions of a particular flock, or factors that may indicate a loss of process control.

(d) Establishments operating under the line speed limits authorized in this section shall comply with all other applicable requirements of the laws, including, but not limited to, 29 U.S.C. 654(a).

■ 7. Amend § 381.76 as follows:

■ a. Revise the section heading.

■ b. Revise paragraphs (a), (b)(1) introductory text, (b)(1)(iv), and (b)(2).

■ c. Add paragraphs (b)(1)(v) and (b)(6).

The revisions read as follows:

§ 381.76 Post-mortem inspection under Traditional Inspection, the Streamlined Inspection System (SIS), the New Line Speed (NELS) Inspection System, the New Poultry Inspection System (NPIS), the New Turkey Inspection System (NTI), and Ratite Inspection.

(a) A post-mortem inspection shall be made on a bird-by-bird basis on all poultry eviscerated in every official establishment. Each carcass, or all parts comprising such carcass, must be examined by an inspector, except for parts that are not needed for inspection purposes and are not intended for human food and are condemned. Each carcass eviscerated shall be prepared as ready-to-cook poultry.

(b)(1) There are six systems of post-mortem inspection: the New Poultry Inspection System (NPIS), which may be used for young chickens and turkeys; the Streamlined Inspection System (SIS) and the New Line Speed Inspection System (NELS), both of which may be used only for broilers and cornish game hens; the New Turkey Inspection (NTI) System, which may be used only for turkeys; Traditional Inspection, which may be used for all poultry, except for ratites; and Ratite Inspection.

* * * * *

(iv) The NPIS may be used for young chickens and turkeys if the official establishment requests to use it and meets or agrees to meet the requirements of paragraph (b)(6) of this section and the Administrator approves the establishment's request. The Administrator may permit establishments that slaughter classes of poultry other than young chickens and turkeys to operate under the New Poultry Inspection System under a waiver from the provisions of the regulations as provided in § 381.3(b).

(v) Traditional Inspection shall be used for turkeys when neither the NTI System nor the NPIS is used. For other classes of poultry, Traditional Inspection shall be used when SIS, NELS, and the NPIS are not used.

(2) Official establishments that operate under Traditional Inspection, SIS, NELS, NTI, or Ratite Inspection must meet the following requirements:

(i) No viscera or any part thereof may be removed from any poultry processed in any official establishment, except at the time of post-mortem inspection, unless its identity with the rest of the carcass is maintained in a manner satisfactory to the inspector until such inspection is made.

(ii) Each carcass to be eviscerated must be opened so as to expose the organs and the body cavity for proper examination by the inspector.

(iii) If a carcass is frozen, it must be thoroughly thawed before being opened for examination by an inspector.

* * * * *

(6) The following requirements are applicable to the NPIS:

(i) *Facilities.* The establishment must comply with the facilities requirements in § 381.36(f).

(ii) *Carcass sorting and disposition.* (A) The establishment must conduct carcass with associated viscera sorting activities, dispose of carcasses and parts exhibiting condemnable conditions, and conduct appropriate trimming and reprocessing activities before carcasses are presented to the online carcass inspector.

(B) Any carcasses removed from the line for reprocessing activities or salvage must be returned to the line before the online carcass inspection station. The establishment must include in its written HACCP plan, or sanitation SOP, or other prerequisite program a process by which parts, other than parts identified as ''major portions'' as defined in § 381.170(b)(22), are available for inspection offline after reprocessing or salvage.

(C) The establishment must develop, implement, and maintain written procedures to ensure that poultry carcasses contaminated with septicemic and toxemic conditions do not enter the chiller. The establishment must incorporate these procedures into its HACCP plan, or sanitation SOP, or other prerequisite program. These procedures must cover, at a minimum, establishment sorting activities required under paragraph (b)(6)(ii) of this section.

(D) The establishment must maintain records to document that the products resulting from its slaughter operation meet the definition of ready-to-cook poultry in § 381.1. These records are subject to review and evaluation by FSIS personnel.

(iii) *Presentation for online carcass inspection.* To ensure the online carcass inspector may properly inspect every carcass, the establishment must present carcasses as follows:

(A) Each carcass, except carcasses and parts identified as ''major portions'' under 9 CFR 381.179(b)(22), must be held by a single shackle;

(B) Both hocks of each carcass must be held by the shackle;

(C) The back side of the carcass must be faced toward the inspector;

(D) There must be minimal carcass swinging motion;

(E) The establishment must ensure that it can sufficiently identify viscera and parts corresponding with each carcass inspected by the online carcass

inspector so that if the carcass inspector condemns a carcass all corresponding viscera and parts are also condemned.

(iv) *Inspection for Avian Visceral Leukosis.* (A) Establishments that slaughter young chickens must notify the inspector-in-charge prior to the slaughter of each new flock to allow the inspection of viscera as provided in § 381.36(f)(3).

(B) If there is evidence that a flock may be affected by avian visceral leukosis, the inspector-in-charge is authorized to adjust inspection procedures as needed to ensure adequate inspection of each carcass and viscera for that condition. The inspector-in-charge is also authorized to require the establishment to adjust its processing operations as needed to accommodate the adjusted inspection procedures.

■ 9. Section 381.91 is amended by revising paragraph (b) to read as follows:

§ 381.91 Contamination.

* * * * *

(b) Any carcass of poultry accidentally contaminated during slaughter with digestive tract contents need not be condemned if promptly reprocessed under the supervision of an inspector and thereafter found not to be adulterated. Contaminated surfaces that are cut must be removed only by trimming. Contaminated inner surfaces that are not cut may be cleaned by trimming alone or may be re-processed as provided in subparagraph (b)(1) or (2) of this section.

(1) *Online reprocessing.* Poultry carcasses accidentally contaminated with digestive tract contents may be cleaned by applying an online reprocessing antimicrobial intervention to all carcasses after evisceration and before the carcasses enter the chiller if the parameters for use of the antimicrobial intervention system have been approved by the Administrator. Establishments must incorporate procedures for the use of any online reprocessing antimicrobial intervention system into their HACCP plans, or sanitation SOPs, or other prerequisite programs.

(2) *Offline reprocessing.* Contaminated inner surfaces that are not cut may be cleaned at an approved reprocessing station away from the main processing line by any method that will remove the contamination, such as vacuuming, washing, and trimming, singly or in combination. All visible specks of contamination must be removed, and if the inner surfaces are reprocessed other than solely by trimming, all surfaces of the carcass must be treated with chlorinated water containing 20 ppm to 50 ppm available chlorine or another approved antimicrobial substance in accordance with the parameters approved by the Administrator. Establishments must incorporate procedures for the use of any offline reprocessing into their HACCP plans, or sanitation SOPs, or other prerequisite programs.

■ 10. Section 381.94 is amended by revising the section heading and paragraph (a) and removing and reserving paragraph (b) to read as follows:

§ 381.94 Contamination with microorganisms; process control verification criteria and testing; pathogen reduction standards for establishments that slaughter ratites.

(a) *Criteria for verifying process control; E. coli testing.* (1) Each official establishment that slaughters ratites shall test for *Escherichia coli* Biotype I (*E. coli*). Establishments that slaughter ratites and livestock, shall test the type of ratites or livestock slaughtered in the greatest number. The establishment shall:

(i) Collect samples in accordance with the sampling techniques, methodology, and frequency requirements in paragraph (a)(2) of this section;

(ii) Obtain analytic results in accordance with paragraph (a)(3) of this section; and

(iii) Maintain records of such analytic results in accordance with paragraph (a)(4) of this section.

(2) *Sampling requirements.* (i) *Written procedures.* Each establishment that slaughters ratites shall prepare written specimen collection procedures which shall identify employees designated to collect samples, and shall address location(s) of sampling, how sampling randomness is achieved, and handling of the sample to ensure sample integrity. The written procedure shall be made available to FSIS upon request.

(ii) *Sample collection.* The establishment must collect samples from whole ratites at the end of the chilling process. Samples from ratites may be collected by sponging the carcass on the back and thigh or samples can be collected by rinsing the whole carcass in an amount of buffer appropriate for that type of bird.

(iii) *Sampling frequency.* Establishments that slaughter ratites, except very low volume ratite establishments as defined in paragraph (a)(2)(v) of this section, must take samples at a frequency proportional to the establishment's volume of production at the following rate: 1 sample per 3,000 carcasses, but at a minimum one sample each week of operation.

(iv) *Sampling frequency alternatives.* An establishment operating under a validated HACCP plan in accordance with § 417.2(b) of this chapter may substitute an alternative frequency for the frequency of sampling required under paragraph (a)(2)(iii) of this section if,

(A) The alternative is an integral part of the establishment's verification procedures for its HACCP plan and,

(B) FSIS does not determine, and notify the establishment in writing, that the alternative frequency is inadequate to verify the effectiveness of the establishment's processing controls.

(v) *Sampling in very low volume ratite establishments.* (A) Very low volume ratite establishments annually slaughter no more than 6,000 ratites. Very low volume ratite establishments that slaughter ratites in the largest number must collect at least one sample during each week of operation after June 1 of each year, and continue sampling at a minimum of once each week the establishment operates until June of the following year or until 13 samples have been collected, whichever comes first.

(B) Upon the establishment's meeting the requirements of paragraph (a)(2)(v)(A) of this section, weekly sampling and testing is optional, unless changes are made in establishment facilities, equipment, personnel or procedures that may affect the adequacy of existing process control measures, as determined by the establishment or by FSIS. FSIS determinations that changes have been made requiring resumption of weekly testing shall be provided to the establishment in writing.

(3) *Analysis of samples.* Laboratories may use any quantitative method for analysis of *E. coli* that is approved as an AOAC Official Method of the AOAC International (formerly the Association of Official Analytical Chemists) or approved and published by a scientific body and based on the results of a collaborative trial conducted in accordance with an internationally recognized protocol on collaborative trials and compared against the three tube Most Probable Number (MPN) method and agreeing with the 95 percent upper and lower confidence limit of the appropriate MPN index.

(4) *Recording of test results.* The establishment shall maintain accurate records of all test results, in terms of colony forming units (CFU)/ml of rinse fluid. Results shall be recorded onto a process control chart or table showing at least the most recent 13 test results. Records shall be retained at the establishment for a period of 12 months

and shall be made available to FSIS upon request.

(5) Establishments shall evaluate *E. coli* test results using statistical process control techniques.

(6) *Failure to meet criteria.* Test results that do not meet the criteria described in paragraph (a)(5) of this section are an indication that the establishment may not be maintaining process controls sufficient to prevent fecal contamination. FSIS shall take further action as appropriate to ensure that all applicable provisions of the law are being met.

(7) *Failure to test and record.* Inspection will be suspended in accordance with rules of practice that will be adopted for such proceeding, upon a finding by FSIS that one or more provisions of paragraphs (a) (1) through (4) of this section have not been complied with and written notice of same has been provided to the establishment.

* * * * *

■ 11. Section 381.129 is amended by adding a new paragraph (b)(6)(v) to read as follows:

§ 381.129 False or misleading labeling or containers.

* * * * *

(b) * * *

(6) * * *

(v) Ready-to-cook chicken may bear the claim ''air chilled'' or ''air chilling'' on its label only if the product was chilled under a process that meets the definition of air chilling in § 381.66(e).

* * * * *

PART 500—RULES OF PRACTICE

■ 12. The authority citation for part 500 continues to read as follows:

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

§ 500.6 [Amended]

■ 13. Section 500.6 is amended by removing and reserving paragraph (f).

Done at Washington, DC, on: July 31, 2014.

Alfred V. Almanza,

Administrator.

[FR Doc. 2014–18526 Filed 8–20–14; 8:45 am]

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Part III

General Services Administration

41 CFR Parts 301–11, 302–2, 302–3, *et al.*
Federal Travel Regulation; Temporary Duty (TDY) Travel Allowances (Taxes); Relocation Allowances (Taxes); Final Rule

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 301–11, 302–2, 302–3, 302–5, 302–6, 302–9, 302–15, and 302–17

[FTR Amendment 2014–01; FTR Case 2009–307; Docket No. 2009–0013; Sequence No. 1]

RIN 3090–AI95

Federal Travel Regulation; Temporary Duty (TDY) Travel Allowances (Taxes); Relocation Allowances (Taxes)

AGENCY: Office of Government-wide Policy (OGP), U.S. General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: GSA is amending the Federal Travel Regulation (FTR) by incorporating recommendations of the Governmentwide Relocation Advisory Board (GRAB) concerning calculation of reimbursements for taxes on relocation expenses. In addition, this final rule alters the process for calculating reimbursements for taxes on extended temporary duty (TDY) benefits to correct errors and to align that process with the final changes to the relocation income tax process.

DATES: *Effective Date:* This rule is effective on September 22, 2014.

Applicability Date: This rule is applicable for employees who relocate beginning January 1, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Miller, Office of Government-wide Policy (MT), U.S. General Services Administration, at 202–501–3822 or email at *rodney.miller@gsa.gov* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FTR Amendment 2014–01, FTR case 2009–307.

SUPPLEMENTARY INFORMATION: This final rule also responds to comments received as a result of the proposed rule and updates regulatory references in accordance with GSA's Final Rule regarding ''Relocation Allowances,'' published in the **Federal Register** on April 1, 2011.

A. Background

The GSA Office of Government-wide Policy seeks to incorporate best practices from Federal agencies and the private sector into the policies that GSA issues. To this end, GSA created the GRAB, consisting of Government and private industry relocation experts, to examine Government relocation policy. The GRAB was chartered under the Federal Advisory Committee Act on July 9, 2004, and it submitted its ''Findings and Recommendations'' on September 15, 2005. The GRAB ''Findings and Recommendations'' and corresponding documents may be accessed at GSA's Web site at *http://www.gsa.gov/grab.* The GRAB made a number of recommendations with regard to taxes, and GSA has developed this final rule in response to those recommendations.

GSA worked with the Executive Relocation Steering Committee (ERSC), an interagency group chartered by GSA, to analyze the GRAB recommendations regarding taxes. The first product of the analysis by the ERSC was a set of four principles:

- Substantially all—Federal agencies are required by 5 U.S.C. 5724b to reimburse ''substantially all'' of the additional income taxes incurred by employees as a result of relocation and to reimburse ''all'' of the taxes imposed on any reimbursement for taxes.
- Fair and equitable—In personnel matters, the Government seeks to treat all employees fairly and equitably. A key piece of this is transparency. Everyone must be able to see and understand how their benefits are being computed. Another key piece is seeking to treat all civilian transferees equally, regardless of grade level.
- Relative simplicity—The tax process is necessarily complex because relocation has so many parts. However, it is important to keep this process as simple as possible, so that: (1) Agencies can and will perform all of the calculations accurately, (2) employees can verify the calculations, and (3) employees will be more likely to believe that they are being treated fairly and equitably.
- Minimizing cost—It is, of course, very important to balance the three objectives above against the overall cost of reimbursing employees for the taxes that they incur. It is important, therefore, to seek to limit reimbursement to ''substantially all'' of each transferee's tax liability, to the extent that this can be done without making the process overly complex.

B. Summary of Comments Received

GSA extends its thanks to all the interested parties that commented on the proposed rule published in the **Federal Register** at 76 FR 32340 on June 6, 2011.

In response to the proposed rule, GSA received comments from seven different entities (4 Federal agencies, 1 provider of support and technical assistance, 1 relocation services company, and 1 trade association).

Although the comments were generally supportive as to the implementation of the changes to the FTR, some requested clarification on specific aspects of implementation time frames, processes, and the agency calculations for the employee taxable reimbursements. All comments were carefully considered in the development of this final rule.

Two comments requested that GSA provide significant lead time for agencies and industry to update their policies, systems, and relocation expense management software in order to ensure a transferring employee's taxable reimbursements are correctly computed. It was further noted that to implement the final rule at the beginning of a tax year would assist with efficiencies and simplicity. GSA agrees, and therefore, this final rule will be effective at the beginning of the calendar year, January 1, 2015, for all relocations that report to duty on or after January 1, 2015, or for extended TDY trips that start on or after January 1, 2015, to allow for an entire tax year to be under the new rules.

One comment suggested in place of the two different terms, Relocation Income Tax Allowance (RITA) and Extended TDY Tax Reimbursement Allowance (ETTRA), that a single term of Income Tax Reimbursement Allowance (ITRA) be used. GSA has reviewed the two different terms, and because they distinguish between TDY and relocation tax implications, GSA will not implement any changes to the terms at this time.

Another comment requested that GSA consider either placing more severe constraints, or that GSA allow agencies to apply more severe constraints, on employees who submit their RITA or ETTRA claims beyond the required date as established by the agency. The comment also suggested that agencies be permitted to provide a warning upfront about timely payments instead of having to provide a 60-day written warning as specified in the new section 302–17.102. At this time, GSA has decided not to change the 60-day written warning as penalties, such as forfeiting the claim, are severe enough. If agencies can demonstrate that late filings are a serious problem, GSA will work with these agencies and the ERSC to review and modify the FTR as necessary.

GSA received several comments suggesting that the one-year Relocation Income Tax Allowance (RITA) process be made mandatory. Two comments supported revising the proposal to make the one-year RITA process mandatory or at a minimum, insert a sunset clause into the regulation that would require

agencies to transition to the one-year process within a specified period of time. However, two agencies said they favor continuing the use of the two-year RITA process at this time and the other two agencies did not provide a comment as to preference. Even with the GRAB's strongest recommendation, a realization of the working environment of the Federal agencies tempered GSA. For a one-year RITA process, a number of comments stated that a year-end cutoff was problematic or even necessary. Specifically, one agency noted the length of time it would take for anyone owed a payment during the cutoff period to receive that payment, and the prompt payment problems of a cutoff period longer than 30 days. Another agency felt that attempting to process its volume at year end would be difficult due to its size, with little overall net benefit to the employee or the agency. GSA uses an example with a 15-day cutoff period, but it was noted that agencies may need a longer cutoff period to accomplish the necessary calculations and payment of RITA before year end. Given that the one-year process is optional, this will allow agencies to reevaluate their current processes and look at alternative ways to implement a one-year process.

One alternative method suggested by a private sector commenter would be to continue paying relocation expenses along with the Withholding Tax Allowance WTA through the end of the year and accomplish the recalculations and RITA payments early in year two for those with reimbursements after some specified date. Because the process would not be completed within one year for those transferees with reimbursements after the cutoff date, the only part of the process remaining in year two would be calculation and payment of the RITA; this could presumably be accomplished before the employee had to file year one tax returns and pay additional taxes for that year, and in time for the agency to issue Forms W–2 that show the correct amount of withholding, and claim adjustments on its employment tax returns industry. While appreciated, GSA chose not to incorporate this suggestion into the Governmentwide regulation because it is not a one-size-fits-all approach, meaning smaller agencies may not need this proposed process and larger agencies might have to wait until fairly late in any new year to process all payments.

However, GSA agrees that agencies need to work towards moving away from the less efficient but accurate two-year process and move towards the more streamlined one-year process. The one-year process is similar to the most common processes utilized in the private sector. The GSA decision to make the one-year RITA process optional will remain in this final rule. This is an option for agencies to consider as they develop changes in their operations to incorporate this final rule. The two-year process is slow and ties up funds for too long, but is more accurate because any mistakes in year one are corrected in year two. Employees need to have the ability to ask for a recalculation regardless of whether one or two years are used.

Several comments noted the lack of GSA guidance on state and local taxes. This final rule is not imposing any new requirements on agencies regarding knowledge of state and local tax laws. The current Part 302–17 requires that the employees find and provide the applicable state and local marginal tax rates. In the past, GSA published state and Puerto Rican tax tables, but those tables were estimates. The current process will be more accurate if the actual rates are used instead of the GSA-produced tax tables, which are based on $25,000 income increments and therefore have inherent inaccuracies because different states have different tax brackets and rules. GSA is unaware of any agencies that currently have problems with local tax rules, including those for relocation, for their employees being paid through payroll and therefore should be able to understand the new tax processes related to relocation. The relationship between multiple states and localities as to tax payments are the employee's responsibility and would have to be known in order to certify their RITA claims. GSA is unaware as to which states or localities share reciprocity. Moreover, GSA does not certify the agreements between jurisdictions. Thus, there is no change from the regulations that are currently in place with regards to state and local taxes. Having GSA keep a record of reliable state and local tax guides as one commenter suggested is not a viable option due to staffing, expertise, and cost. For these reasons, GSA will not be able to do so.

Two comments suggesting having the WTA cover state and local taxes. While this is intriguing, it cannot be done because the tax burden is on the employee, and ultimately it is the employee's responsibility to pay, even if they are reimbursed for substantially all of the WTA through the process.

Two comments were received that stated that the proposed rule did not incorporate any way to handle alternative minimum tax, limited tax credits for those of certain income, and the phase outs of various tax credits such as the housing credits from several years ago. GSA has no authority to provide tax advice. This is an item that employee's will need to discuss with personal tax advisors.

One commenter asked whether GSA was going to make any type of automated or electronic tax system available Government-wide. There are numerous private and interagency systems available to agencies that can provide this kind of service.

Comments were also received regarding recalculations. One of the philosophies behind this final rule is that employees are able to make tax decisions using all of the applicable information available. Thus, the process permits agencies to make the WTA optional.

The same philosophy results in a decision not to set a minimum such as $500 for disputing amounts to use as a basis for recalculations. If the employee is unhappy they may request a recalculation. While GSA may consider implementing a minimum threshold in a future change, until a new process is set and tested, appeals for recalculation will be allowed at any amount. Another commenter suggested that the WTA rules should not encourage employees to calculate their own WTA because this encourages recalculation requests. This suggestion is rejected because the process must remain open and transparent, as the Government intends to work with its employees undergoing relocations.

Another comment received stated that the Government should only consider the employee's income, not the income of the spouse. It is GSA's position that the spouse's income must be considered, as well, since the Government is providing reimbursement for the relocation expenses of the employee's immediate family.

GSA received a number of administrative comments, including but not limited to, the supporting documentation that can be requested from an employee in calculating taxes and a suggestion to ensure that employees are made aware that RITA will be paid to relevant tax authorities, as opposed to the entire amount being reimbursed directly to the employee. GSA does not believe that the final rule will be strengthened by specifically adding these provisions; however, agencies can consider these topics in internal policies. Finally, other substantive comments received were adopted and are addressed within the text of this final rule.

C. Major Changes in This Final Rule

This final rule removes existing FTR Part 301–11, Subpart E, and it replaces FTR Part 301–11, Subpart F, which regulates taxes involved in extended TDY benefits. Finally this rule also completely replaces FTR Part 302–17.

The major changes in This final rule are:

Taxes on extended TDY benefits—The existing FTR Part 301–11, Subpart E, addresses only tax years 1993 and 1994 and is therefore obsolete. FTR Part 301–11, Subpart F, includes several substantial errors and does not agree with either the existing FTR Part 302–17 or this final rule. This final rule deletes FTR Part 301–11, Subpart E, and it replaces FTR Part 301–11, Subpart F in its entirety. This final rule also eliminates the lump sum process for reimbursing taxes on extended TDY benefits. This process is seldom used, and therefore, creates more confusion than benefit.

Question and answer format—This final rule puts FTR Part 302–17 into question and answer format to conform to the remainder of the FTR. GSA notes that the GRAB recommended that GSA move in the other direction, taking all of the FTR back to its old format. GSA has considered and rejected this GRAB recommendation. GSA continues to believe that the question and answer format is easier to read and understand for the large majority of users.

Eliminating use of two tables for Federal tax rates—GSA examined the tax tables for the past seven years and determined that the difference in tax rates from year to year is not large enough to justify formulas complex enough to account for year-to-year changes in Federal tax rates.

Standardizing usage of the terms ''withholding tax allowance'' (WTA) and *''relocation income tax allowance'' (RITA)*—The existing FTR Part 302–17 is not entirely clear in its use of these two terms. The final rule seeks to clarify these terms and, to this end, changes the title of FTR Part 302–17 to ''Taxes on Relocation Expenses.''

Fraudulent claims—The existing FTR Part 302–17 includes a paragraph, at section 302–17.10(c), about fraudulent claims made against the United States, especially in the context of the ''Statement of Income and Tax Filing Status.'' The statutes on fraudulent claims remain in effect and unchanged. However, these statutes apply to the entire relocation process, not just reimbursement for taxes on relocation expenses. Therefore, GSA has added a new section to FTR Part 302–2 to address fraudulent claims made at any point during the relocation reimbursement process. This new section directly mirrors section 301–52.12 covering fraudulent claims with regards to TDY benefits.

New definitions—The final rule includes definitions for 13 terms in a glossary that is specific to FTR Part 302–17. Many of these terms are defined in the text of the existing FTR Part 302–17; the final rule gathers these 13 definitions into one place for easy reference in the new section 302–17.1.

Limitations and Federal income tax treatments—The final rule provides a table in section 302–17.8 that summarizes allowances, limitations, and tax treatment for each relocation reimbursement, allowance or direct payment to a vendor provided by the FTR.

Correcting the taxability of household goods transportation expenses—The existing section 302–17.3(b) states that the expenses for transportation of household goods (HHG) are taxable. This was true when the existing FTR Part 302–17 was published. However, in 1993 the IRC section on fringe benefits was amended to exclude from income certain moving expenses that are reimbursed and otherwise would be deductible. At the same time the IRC was amended to make fewer moving expenses deductible. One result was that the HHG shipment became a deductible expense. This inaccuracy is corrected in the final rule.

Correcting the withholding rate for supplemental wages—The withholding rate of 28 percent for supplemental wages used in the current FTR Part 301–11, Subpart F and section 302–17.7 is incorrect. The correct rate is 25 percent, and this is the rate used in this final rule, at section 302–17.24. This rate was scheduled to revert to 28 percent on January 1, 2011, but did not due to legislative action. If and when this rate changes, GSA will correct the new FTR Part 302–17 to reflect the rate change.

Allowing a one-year RITA process—The GRAB's ''Findings and Recommendations'' clearly says that a one-year RITA process is the standard in the private sector because it is quicker and simpler. The GRAB strongly recommended that the Federal Government adopt a one-year process. In addition to its complexity, the existing two-year process for calculating taxes on relocation expenses creates a burden for many lower-grade transferees, because they are more likely to be required, in the second year, to repay an over-reimbursement in the first year. On the other hand, discussions with Federal agencies have made it clear that moving to a one-year process will be challenging, and many are reluctant to move in that direction. The problems are mainly due to systems upgrades required to change the process so radically. In addition, as some have noted, the two-year process does result in a somewhat more accurate reflection of the actual tax impact on the employee. Therefore, this final rule offers the one-year RITA process to agencies as an option, alongside the existing two-year process. It also includes, at new section 302–17.103, a short discussion of the benefits and drawbacks of the one-year and two-year processes. See also new sections 302–17.31 and 302–17.32, and Subparts F and G in Part 302–17.

Making the WTA optional—A number of Federal agencies have made the WTA optional to the employee. Nothing in tax law or existing regulations prohibits this practice, and in some cases declining the WTA may be advantageous to the employee. This final rule explicitly gives the agencies permission to make the WTA optional and provides guidance and explanation for the both the agency and the employee.

Moving from earned income to taxable income—As the ERSC reviewed the GRAB's recommendations, it recognized that using taxable income (instead of earned income like the existing FTR Part 302–17), would provide a simpler process and would bring the taxes reimbursement calculation closer to the target of ''substantially all.'' Moving to taxable income resolves several of the issues that the GRAB raised, including issues with capital gains and self-employment income. See new sections 302–17.40, 302–17.50, and Part 302–17.63 for information on how taxable income is used.

Eliminating the Government-unique tax tables—Moving to taxable income will also make it unnecessary for GSA to publish special tax tables each year. Transferees and agencies will be able to use the tables published by the U.S. Internal Revenue Service (IRS) and state and local tax authorities. With this change, agencies will be able to process claims as soon as the IRS issue the tables, rather than wait for GSA to develop unique tables based on them.

Failure to file the ''Statement of Income and Tax Filing Status'' in a timely manner—The existing section 302–17.7(e)(2) makes the entire WTA an excess payment if the employee fails to file the statement or the RITA claim in a timely manner. Because the WTA is an advance payment on the employee's reimbursable income tax expenses, agencies are entitled to recover it if an employee fails to properly document

their income taxes. Therefore, this final rule continues these requirements on the employee and the agency, except in the case of an employee who declines the WTA. In this case, if the employee fails to file the ''Statement of Income and Tax Filing Status'' and/or the RITA claim in a timely manner, and in accordance with agency policy, this final rule allows the agency to close the file without paying the RITA. See new sections 302–17.53, 302–17.65, and 302–17.102.

Recalculation of RITA—The existing FTR Part 302–17 makes no provision for the employee to request recalculation. Most private sector companies allow employees to request recalculation, at least in some circumstances, though the percentage of private sector employees who request recalculation is small. The final rule makes it possible for Federal employees to request recalculation, provided they filed and/or amended their ''Statement of Income and Tax Filing Status'' in a timely manner. See the new section 302–17.33.

Agency responsibilities—The existing FTR Part 302–17 mentions some agency responsibilities in the context of other provisions. The final rule, in conformity with the rest of the FTR, lists the agency responsibilities together in the new Subpart H.

Information about state and local tax laws—GSA informally circulated a draft version of the proposed rule to various Federal agencies asking for input. Several agencies objected to what they thought were new or additional burdens stemming from requirements to know and utilize state and local tax laws. However, current section 302–17.10(b)(2) already places this requirement on agencies, stating ''. . . it is incumbent upon the appropriate agency officials to become familiar with the state and local tax laws that affect their transferring employees.'' In short, this final rule is not imposing any new requirements on agencies regarding knowledge of state and local tax law. At the same time, this rule continues the current FTR Part 302–17 requirement that the employee find and provide the applicable state and local marginal tax rates.

D. Changes to the Current FTR

This final rule—

- Removes FTR Part 301–11, Subpart E.
- Revises FTR Part 301–11, Subpart F in its entirety.
- Adds new section 302–2.7.
- Revises one sentence in section 302–3.502(b).
- Updates references in Parts 302–2, 302–3, 302–5, 302–6, 302–9, and 302–15; and
- Revises FTR Part 302–17 in its entirety.

E. Executive Orders 12866 and 13563

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

F. Regulatory Flexibility Act

This final rule will not have significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* This final rule is also exempt from Administrative Procedure Act per 5 U.S.C. 553(a)(2), because it applies to agency management or personnel. However, this final rule is being published to provide transparency in the promulgation of Federal policies.

G. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FTR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

H. Small Business Regulatory Enforcement Fairness Act

This final rule is also exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 301–11, 302–2, 302–3, 302–5, 302–6, 302–9, 302–15 and 302–17

Government employees, Income taxes, Relocation, Travel and transportation expenses.

Dated: July 28, 2014.

Dan Tangherlini,

Administrator of General Services.

For the reasons set forth in the preamble, under 5 U.S.C. 5701–5739, GSA is amending 41 CFR Parts 301–11, 302–2, 302–3, 302–5, 302–6, 302–9, 302–15 and 302–17 as set forth below:

PART 301–11—PER DIEM EXPENSES

■ 1. The authority for Part 301–11 continues to read as follows:

Authority: 5 U.S.C. 5707.

Subpart E—[Removed and Reserved]

■ 2. Remove and reserve Subpart E.

■ 3. In subpart F, under the ''General'' heading, revise §§ 301–11.601 through 301–11.603 and add §§ 301–11.605 and 301–11.605 to read as follows:

Subpart F—Taxes on Extended TDY Benefits

General

Sec.

301–11.601 What is a taxable extended TDY assignment?
301–11.602 What factors should my agency consider in determining whether to authorize extended TDY?
301–11.603 What are the tax consequences of extended TDY?
301–11.604 What are the procedures for calculation and reimbursement of my WTA and ETTRA for taxable extended TDY?
301–11.605 When should I file my ''Statement of Income and Tax Filing Status'' for my taxable extended TDY assignment?

* * * * *

Subpart F—Taxes on Extended TDY Benefits

General

§ 301–11.601 What is a taxable extended TDY assignment?

A taxable extended TDY assignment is a TDY assignment that continues for so long that, under the IRC the employee is no longer considered temporarily away from home during any period of employment if such period exceeds 1 year. You are no longer temporarily away from home as of the date that you and/or your agency recognize that your assignment will exceed one year. That is, as soon as you recognize that your assignment will exceed one year, you must notify your agency of that fact, and they must change your status immediately. Similarly, as soon as your agency recognizes that your assignment will exceed one year, your agency must notify you of that fact and change your

status. The effective date of this status change is the date on which it was recognized that you are no longer temporarily away from home as defined in the IRC.

(a) If you believe that your temporary duty assignment may exceed one year, you should carefully study IRS Publication 463, ''Travel, Entertainment, Gift, and Car Expenses,'' to determine whether you are or will be considered ''temporarily away from home'' under this provision. If you are not or will not be considered temporarily away from home under this provision, then you are on taxable extended TDY.

(b) The IRC makes an exception for certain Federal personnel involved in investigation or prosecution of a Federal crime during any period for which such employee is certified by the Attorney General (or the designee thereof) as traveling on behalf of the United States in temporary duty status to investigate or prosecute, or provide support services for the investigation or prosecution of, a Federal crime.

§ 301–11.602 What factors should my agency consider in determining whether to authorize extended TDY?

Your agency should consider the factors discussed in § 302–3.502 of this subtitle in determining whether to authorize extended TDY.

§ 301–11.603 What are the tax consequences of extended TDY?

(a) If you are on a taxable extended TDY assignment, then all allowances and reimbursements for travel expenses, plus all travel expenses that the Government pays directly on your behalf in connection with your TDY assignment, are taxable income to you. This includes all allowances, reimbursements, and direct payments to vendors from the day that you or your agency recognized that your extended TDY assignment is expected to exceed one year, as explained in § 301–11.601.

(b) Your agency will reimburse you for substantially all of the income taxes that you incur as a result of your taxable extended TDY assignment. This reimbursement consists of two parts:

(1) The Withholding Tax Allowance (WTA). See Part 302–17, Subpart B of this Subtitle for information on the WTA; and

(2) The ''Extended TDY Tax Reimbursement Allowance'' (ETTRA) (in previous editions of the FTR this was known as the ''Income Tax Reimbursement Allowance'').

(c) The WTA and ETTRA for taxable extended TDY assignments cover only the TDY benefits described in FTR Chapter 301, Subchapter B. On an extended TDY assignment, you are not eligible for the other benefits that you would have received if your agency had permanently relocated you.

§ 301–11.604 What are the procedures for calculation and reimbursement of my WTA and ETTRA for taxable extended TDY?+

(a) If your agency knows from the beginning of your TDY assignment that your assignment qualifies as taxable extended TDY, then your agency will withhold an amount as a WTA and pay that as withholding tax to the IRS until your extended TDY assignment ends. The WTA itself is taxable income to you, so your agency increases, or ''grosses-up,'' the amount of the WTA, using a formula to reimburse you for the additional taxes on the WTA.

(b) If your agency realizes during a TDY assignment that you will incur taxes (because, for example, the TDY assignment has lasted, or is going to last, longer than originally intended), then your agency will compute the WTA for all taxable benefits received since the date it was recognized that you are no longer ''temporarily away from home'' (see § 302–11.601 for more information on the meaning of ''temporarily away from home''). Your agency will pay that amount to the IRS, and then will begin paying WTA to the IRS until your extended TDY assignment ends.

(c) For your ETTRA, your agency will use the same one-year or two-year process that it has chosen to use for the relocation income tax allowance (RITA).

(d) See part 302–17 of this subtitle for additional information on the WTA and RITA processes.

Note to § 301–11.604: If your agency offers you the choice, the WTA is optional to you. See §§ 302–17.61 through 302–17.69.

§ 301–11.605 When should I file my ''Statement of Income and Tax Filing Status'' for my taxable extended TDY assignment?

You should file your ''Statement of Income and Tax Filing Status'' for your taxable extended TDY assignment at the beginning of your extended TDY assignment, or as soon as you or your agency realizes that your TDY assignment will incur taxes. You should provide the same information as the sample ''Statements of Income and Tax Filing Status'' shown in part 302–17, subpart F (one-year process) or subpart G (two-year process) of this subtitle.

PART 302–2—EMPLOYEE ELIGIBILITY REQUIREMENTS

■ 4. The authority for part 302–2 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a).

§ 302–2.3 [Amended]

■ 5. Amend § 302–2.3 by removing ''§§ 302–2.7 through 30–2.11.'' and adding ''§§ 302–2.8 through 302–2.12'' in its place.

§§ 302–2.7 through 302–2.24 [Redesignated as §§ 302–2.8 through 302–2.25]

■ 6. Redesignate §§ 302–2.7 through 302–2.24 as §§ 302–2.8 through 302–2.25, respectively.

■ 7. Remove the undesignated center heading ''Time Limits'' that previously appeared before § 302–2.7 and add it before the newly-designated § 302–2.8.

■ 8. Add new § 302–2.7 to read as follows:

§ 302–2.7 What happens if I attempt to defraud the Government?

If you attempt to defraud the Government:

(a) You forfeit reimbursement pursuant to 28 U.S.C. 2514; and

(b) You may be subject under 18 U.S.C. 287 and 1001 to one, or both, of the following:

(1) A fine of not more than $10,000, and/or

(2) Imprisonment for not more than 5 years.

§ 302–2.9 [Amended]

■ 9. Amend newly-redesignated § 302–2.9 by removing ''§ 302–2.9 or § 302–2.10.'' and adding ''§ 302–2.10 or § 302–2.11.'' in its place.

§ 302–2.11 [Amended]

■ 10. Amend newly-redesignated § 302–2.11 by removing ''302–2.8'' and adding ''302–2.9'' in its place wherever it appears.

■ 11. Remove the undesignated center heading ''Service Agreements and Disclosure Statement'' that previously appeared before § 302–2.12 and add it before newly-redesignated § 302–2.13.

§ 302–2.13 [Amended]

■ 12. Amend newly-redesignated § 302–2.13 by removing ''§ 302–2.13, after you have relocated. A service agreement must also include the duplicate reimbursement disclosure statement specified in §§ 302–2.20, 302–2.21, and 302–2.100(g).'' and adding ''§ 302–2.14, after you have relocated. A service agreement must also include the duplicate reimbursement disclosure statement specified in §§ 302–2.21, 302–2.22, and 302–2.100(g).'' in its place.

■ 13. Remove the undesignated center heading ''Advancement of Funds'' that previously appeared before § 302–2.20 and add it before newly-redesignated § 302–2.23.

§ 302–2.100 [Amended]

■ 14. Amend § 302–2.100, paragraph (g) by removing ''*see* § 302–2.21.'' and adding ''*see* § 302–2.22'' in its place.

§ 302–2.101 [Amended]

■ 15. Amend § 302–2.101, paragraph (b) by removing ''§ 302–2.13.'' and adding ''§ 302–2.14'' in its place.

PART 302–3—RELOCATION ALLOWANCE BY SPECIFIC TYPE

■ 16. The authority for part 302–3 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a).

■ 17. Amend § 302–3.502, in paragraph (b), by revising the second sentence to read as follows:

§ 302–3.502 What factors should we consider in determining whether to authorize a TCS for a long-term assignment?

* * * * *

(b) * * * The Withholding Tax Allowance and the Extended TDY Tax Reimbursement Allowance allow for the reimbursement of Federal, state, and local income taxes incurred as a result of taxable extended temporary duty assignments (see §§ 301–11.601—301–11.605 of this Subtitle). * * *

* * * * *

PART 302–5—ALLOWANCE FOR HOUSEHUNTING TRIP EXPENSES

■ 18. The authority for part 302–5 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, as amended, 3 CFR, 1971–1975 Comp., p. 586.

§ 302–5.16 [Amended]

■ 19. Amend § 302–5.16 by removing ''§§ 302–2.22, 302–2.23, and 302–2.24.'' and adding ''§§ 302–2.23, 302–2.24, and 302–2.25'' in its place respectively.

PART 302–6—ALLOWANCE FOR TEMPORARY QUARTERS SUBSISTENCE EXPENSES

■ 20. The authority for part 302–6 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, as amended, 3 CFR, 1971–1975 Comp., p. 586.

§ 302–6.15 [Amended]

■ 21. Amend § 302–6.15 by removing ''§§ 302–2.22, 302–2.23, and 302–2.24'' and adding ''§§ 302–2.23, 302–2.24, and 302–2.25'' in its place respectively.

§ 302–6.103 [Amended]

■ 22. Amend § 302–6.103 by removing ''§ 302–2.8.'' and adding ''§ 302–2.9'' in its place.

PART 302–9—ALLOWANCES FOR TRANSPORTATION AND EMERGENCY OR TEMPORARY STORAGE OF A PRIVATELY OWNED VEHICLE

■ 23. The authority for part 302–9 continues to read as follows:

Authority: 5 U.S.C. 5737a; 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, as amended, 3 CFR, 1971–1975 Comp., p. 586.

§ 302–9.12 [Amended]

■ 24. Amend § 302–9.12 by removing ''§ 302–2.22'' and adding ''§ 302–2.23'' in its place.

PART 302–15—ALLOWANCE FOR PROPERTY MANAGEMENT SERVICES

■ 25. The authority for part 302–15 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, as amended, 3 CFR, 1971–1975 Comp., p. 586.

§ 302–15.12 [Amended]

■ 26. Amend § 302–15.12 by removing ''§ 302–2.13'' and adding ''§ 302–2.14'' in its place.

■ 27. Revise Part 302–17 to read as follows:

PART 302–17—TAXES ON RELOCATION EXPENSES

Sec.
302–17.0 General.

Subpart A—General

302–17.1 What special terms apply to this Part?
302–17.2 Why does relocation affect personal income taxes?
302–17.3 What is the Government's objective in reimbursing the additional income taxes incurred as a result of a relocation?
302–17.4 Why is the reimbursement for *substantially all,* and not *exactly all,* of the additional income taxes incurred as a result of a relocation?
302–17.5 Who is eligible for the WTA and the RITA?
302–17.6 Who is not eligible for the WTA and the RITA?
302–17.7 Is there any circumstance under which the WTA and the RITA are not paid even though I would otherwise be eligible?
302–17.8 What limitations and Federal income tax treatments apply to various relocation reimbursements?
302–17.9 Who is responsible for knowing which relocation expenses are taxable and which expenses are nontaxable?
302–17.10 Which expenses should I report on my state tax returns if I am required to file returns in two different states?
302–17.11 When is an expense considered completed in a specific tax year?
302–17.12 Where can I find additional information and guidance on WTA and RITA?
302–17.13 How are taxes on extended TDY benefits and taxes on relocation allowances related?

Subpart B—The Withholding Tax Allowance (WTA)

302–17.20 What is the purpose of the WTA?
302–17.21 What relocation expenses does the WTA cover?
302–17.22 What relocation expenses does the WTA *not* cover?
302–17.23 What are the procedures for my WTA?
302–17.24 How does my agency compute my WTA?

Subpart C—The Relocation Income Tax Allowance (RITA)

302–17.30 What is the purpose of the RITA?
302–17.31 What are the procedures for calculation and payment of my RITA?
302–17.32 Who chooses the one-year or two-year process?
302–17.33 May I ask my agency to recalculate my RITA?

Subpart D—The Combined Marginal Tax Rate (CMTR)

302–17.40 How does my agency calculate my CMTR?
302–17.41 Is there any difference in the procedures for calculating the CMTR, depending on whether my agency chooses the one-year or two-year RITA process?
302–17.42 Which state marginal tax rate(s) does my agency use to calculate the CMTR if I incur tax liability in more than one state, and how does this affect my RITA and my state tax return(s)?
302–17.43 What local marginal tax rate(s) does my agency use?
302–17.44 What if I incur income tax liability to the Commonwealth of Puerto Rico?
302–17.45 What if I incur income tax liability to the Commonwealth of the Northern Mariana Islands or any other territory or possession of the United States?

Subpart E—Special Procedure If a State Treats an Expense as Taxable Even Though It Is Nontaxable Under the Federal IRC

302–17.46 What does my agency do if a state treats an expense as taxable even though it is nontaxable under the Federal IRC?

Subpart F—The One-Year RITA Process

302–17.50 What information should I provide to my agency to make the RITA calculation possible under the one-year process?
302–17.51 When should I file my ''Statement of Income and Tax Filing Status'' under the one-year process?
302–17.52 When should I file an amended ''Statement of Income and Tax Filing Status'' under the one-year process?

302–17.53 What happens if I do not file and amend the ''Statement of Income and Tax Filing Status'' in a timely manner?
302–17.54 How does my agency calculate my RITA under the one-year process?
302–17.55 What does my agency do once it has calculated my RITA under the one-year process?
302–17.56 What do I do, under the one-year process, once my agency has provided my W–2(s)?

Subpart G—The Two-Year RITA Process

302–17.60 How are the terms ''Year 1'' and ''Year 2'' used in the two-year RITA process?
302–17.61 Is the WTA optional under the two-year process?
302–17.62 What information do I put on my tax returns for Year 1 under the two-year process?
302–17.63 What information should I provide to my agency to make the RITA calculation possible under the two-year process?
302–17.64 When should I file my ''Statement of Income and Tax Filing Status'' under the two-year process?
302–17.65 What happens if I do not file the ''Statement of Income and Tax Filing Status'' in a timely manner?
302–17.66 How do I claim my RITA under the two-year process?
302–17.67 How does my agency calculate my RITA under the two-year process?
302–17.68 What does my agency do once it has calculated my RITA under the two-year process?
302–17.69 How do I pay taxes on my RITA under the two-year process?

Subpart H—Agency Responsibilities

302–17.100 May we use a relocation company to comply with the requirements of this part?
302–17.101 What are our responsibilities with regard to taxes on relocation expenses?
302–17.102 What happens if an employee fails to file and/or amend a ''Statement of Income and Tax Filing Status'' prior to the required date?
302–17.103 What are the advantages of choosing a 1-year or a 2-year RITA process?

Authority: 5 U.S.C. 5724b; 5 U.S.C. 5738; E.O. 11609, as amended, 3 CFR, 1971–1975 Comp., p. 586.

§ 302–17.0 General.

Use of the pronouns ''I,'' ''you,'' and their variants throughout this part refer to the employee, unless otherwise noted.

Subpart A—General

§ 302–17.1 What special terms apply to this Part?

The following definitions apply to this part:

Allowance means*:*

(1) Money paid to the employee to cover future expenses, such as the miscellaneous expense *allowance* (see part 302–16 of this chapter for information about the miscellaneous expense *allowance*);

(2) Money paid to the employee to cover past expenses, such as the relocation income tax *allowance* (RITA) under the two-year tax process described in Part 302–17, Subpart G; or

(3) A limit established by statute or regulation, such as the 18,000 pound net weight *allowance* for household goods shipments (see Part 302–7 of this chapter for information about the 18,000 pound net weight *allowance*).

City means any unit of general local government as defined in 31 CFR 215.2(b).

Combined marginal tax rate (CMTR) means a single rate determined by combining the applicable marginal tax rates for Federal, state, and local income taxes, using the formula provided in § 302–17.40. (If you incur liability for income tax in the Commonwealth of Puerto Rico, see § 302–17.44.)

County means any unit of local general government as defined in 31 CFR 215.2(e).

Gross-up used as a noun in this part means:

(1) The process that your agency uses to estimate the additional income tax liability that you incur as a result of relocation benefits and taxes on those benefits; or

(2) The result of the *gross-up* process.

Note: The *gross-up* allows for the fact that every reimbursement of taxes is itself taxable. Therefore, the gross-up calculates the amount an agency must reimburse an employee to cover substantially all of the income taxes incurred as the result of a relocation.

Internal Revenue Code (IRC) means Title 26 of the United States Code, which governs Federal income taxes.

Local income tax means a tax imposed by a recognized city or county tax authority that is deductible for Federal income tax purposes as a *local income tax* under the IRC, at 26 U.S.C. 164(a)(3). (See the definitions for the terms *city* and *county* in this section.)

Marginal tax rate (MTR) means the tax rate that applies to the last increment of taxable income after taxable relocation benefits have been added to the employee's income. For example, suppose a married employee who files jointly has a taxable income of $120,000. According to the IRS 2011 Tax Rate Schedules, taxable income between $69,000 and $139,350 is taxed at the 25 percent tax rate; therefore, the $120,000 taxable income of the employee and spouse is in this range, so they have a 25 percent *MTR.* If the employee receives $30,000 of taxable relocation benefits, the taxable income for the employee and spouse is now $150,000, which is in the next highest tax bracket. In this example, the employee and spouse now have a Federal *MTR* of 28 percent once the taxable relocation benefits have been added to their income.

Reimbursement means money paid to you to cover expenses that you have already paid for out of your own funds.

Relocation benefits means all reimbursements and allowances that you receive, plus all direct payments that your agency makes on your behalf, in connection with your relocation.

Relocation income tax allowance (RITA) means the payment to the employee to cover the difference between the withholding tax allowance (WTA), if any, and the actual tax liability incurred by the employee as a result of their taxable relocation benefits; *RITA* is paid whenever the actual tax liability exceeds the WTA.

State means any one of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

State income tax means a tax imposed by a state tax authority that is deductible for Federal income tax purposes under the IRC, specifically 26 U.S.C. 164(a)(3).

Withholding tax allowance (WTA) means the amount paid to the Federal IRS by the agency as withholding of income taxes for any taxable relocation allowance, reimbursement, or direct payment to a vendor.

§ 302–17.2 Why does relocation affect personal income taxes?

When you are relocated from one permanent duty station to another, you are reimbursed by your employing agency for certain expenses. The IRC requires that you report many of these relocation benefits, including some that your agency pays on your behalf, as taxable income. When you receive taxable benefits, you must pay income tax on the amount or value of those benefits. However, 5 U.S.C. 5724b also requires that your agency reimburse you for substantially all of the additional Federal, state, and local income taxes you incur as a result of any taxable relocation benefits. A reimbursement for taxes is also a taxable benefit on which you must pay additional taxes.

§ 302–17.3 What is the Government's objective in reimbursing the additional income taxes incurred as a result of a relocation?

The Government's objective is to reimburse transferred employees for

substantially all (not exactly all—see § 302–17.4) of the additional Federal, state, and local income taxes incurred as a result of a relocation, including the taxes on the taxable relocation benefits and the taxes on the reimbursement for taxes.

§ 302–17.4 Why is the reimbursement for substantially all, and not exactly all, of the additional income taxes incurred as a result of a relocation?

Because of the complexity of the calculations, which involve not only Federal income tax but also the income tax rates of many states and localities, it is not reasonable for the Government to compute the exact impact of relocation on an affected employee's taxes. Making a good faith effort to reimburse substantially all additional income taxes is sufficient. The statute where this appears, at 5 U.S.C. 5724b does not define substantially all. This Part provides the description through its provisions.

§ 302–17.5 Who is eligible for the WTA and the RITA?

The withholding tax allowance (WTA) and the relocation income tax allowance (RITA) are the two allowances through which the Government reimburses you for substantially all of the income taxes that you incur as a result of your relocation. You are eligible for the WTA and the RITA if your agency is transferring you from one permanent duty station to another, in the interest of the Government, and your agency's reimbursements to you for relocation expenses result in you being liable for additional taxes.

Note to § 302–17.5: If your agency offers you the choice, the WTA is optional to you. See 302–17.61 through 302–17.69.

§ 302–17.6 Who is not eligible for the WTA and the RITA?

You are not eligible for the WTA or the RITA if you are:

(a) A new appointee;

(b) Assigned under the Government Employees Training Act; or

(c) Returning from an overseas assignment for the purpose of separation from Government service.

§ 302–17.7 Is there any circumstance under which the WTA and the RITA are not paid even though I would otherwise be eligible?

If you violate the 12-month service agreement under which you are relocated, your agency will not pay the WTA or the RITA to you, and you must repay any relocation benefits paid prior to the violation.

§ 302–17.8 What limitations and Federal income tax treatments apply to various relocation reimbursements?

(a) If you were moving yourself for a new job, with no help from your employer, then you probably would be able to deduct some of your relocation expenses. However, if you are eligible for WTA and RITA under this part, your Federal agency reimburses you or pays directly for many relocation expenses that otherwise would be deductible. Since you could have deducted these expenses if you had paid them yourself, the benefits you receive from your agency for these ''deductible'' relocation expenses are nontaxable. Therefore, you do not report them as income and you cannot take them as deductions.

(b) However, many other relocation benefits are taxable income to you, the employee, because you could not have deducted them. You also may not deduct the additional taxes you incur, as a result of taxable benefits (except that you may deduct state and local income taxes on your Federal tax return). Your agency will reimburse you for most of these taxable expenses and for substantially all of the additional taxes that you incur as a result of the taxable benefits.

(c) The following table summarizes the FTR allowances, limitations, and tax treatment of each reimbursement, allowance, or direct payment to a vendor. See IRS Publication 521, Moving Expenses, and the cited FTR paragraphs for details.

TABLE TO § 302–17.8—FTR ALLOWANCES AND FEDERAL INCOME TAX TREATMENTS

Entitlement	Summary of FTR allowance	FTR Part or section	Tax treatments
Meals while en route to the new duty station.	The standard CONUS per diem for meals and incidental expenses.	§ 302–4.200	Taxable.
Lodging while en route to the new duty station.	The standard CONUS per diem for lodging expenses for the employee only.	§ 302–4.200	Nontaxable provided the cost is reasonable according to the IRC.
Transportation using your POV to your new duty station.	Actual cost or the rate established by the IRS for using a POV for relocation.	Part 302–4	Nontaxable.
Transportation to your new duty station using a common carrier (an airline, for example).	Actual cost	Part 302–4	Nontaxable.
Per diem and transportation for househunting trip.	Actual Expense Method: 10 days of per diem plus transportation expenses—must be itemized;	Part 302–5	Taxable.
	or	Part 302–5	Taxable.
	Lump Sum Method: Locality rate times 5 (one person) or times 6.25 (employee and spouse) for up to 10 days—no itemization required.		
Temporary quarters subsistence expenses (TQSE).	Actual Expense Method: Maximum of 120 days; full per diem for only the first 30 days—itemization required; *or.*	§ 302–6.100	Taxable.
	Lump Sum Method: Multiply number of days allowed by .75 times the locality rate (30 days maximum)—no itemization required.	§ 302–6.200	Taxable.

TABLE TO § 302–17.8—FTR ALLOWANCES AND FEDERAL INCOME TAX TREATMENTS—Continued

Entitlement	Summary of FTR allowance	FTR Part or section	Tax treatments
	Note: Additional TQSE allowances for family members are less than the benefit for the employee occupying TQ alone.		
Shipment of household goods (HHG) to include unaccompanied air baggage (UAB) and professional books, papers, and equipment (PBP&E).	Transportation of up to 18,000 pounds	Part 302–7	Transportation of goods from your former residence to your new residence is nontaxable.
Temporary storage of household goods in transit, as long as the expenses are incurred within any 30 calendar day period after the day your items are removed from your old residence and before they are delivered to the new residence.	Temporary storage of up to 30 days (However, see the section immediately below).	§ 302–7.9	Nontaxable.
Temporary storage of household goods beyond 30 days.	Temporary storage of 60 plus 90 days, NTE 150 days for CONUS relocations, and 90 days plus another 90 days, NTE 180 for OCONUS relocations.	§ 302–7.9	Taxable.
Extended storage of Household Goods (HHG).	CONUS—TCS (per agency policy) or isolated duty station only.	§ 302–3.414; Part 302–8, Subpart B.	Taxable.
	OCONUS—Agency policy	Part 302–8, Subparts C and D.	Nontaxable.
Transportation of privately-owned vehicle (POV).	CONUS—Agency discretion	Part 302–9, Subpart D.	Nontaxable.
	OCONUS—Agency discretion	Part 302–9, Subparts B & C.	Nontaxable.
Shipment of mobile home in lieu of HHG.	Limited to maximum allowance for HHG.	§ 302–10.3	Nontaxable.
Residence transactions:.			
▪ Sale of home	Closing costs up to 10% of actual sales price.	§ 302–11.300(a)	Taxable.
▪ Purchase of home	Closing costs up to 5% of actual purchase price.	§ 302–11.300(b)	Taxable.
▪ Lease-breaking	Itemization required	§§ 302–11.430 & 431.	Taxable.
Payments to Relocation Service Contractors.	According to agency policy and contracts.	Part 302–12	Taxability determined on a case-by-case basis.
Home Marketing Incentive Payment	See internal agency policies and regulations.	Part 302–14	Taxable, but not eligible for WTA or RITA.
Property Management Services	See internal agency policies and regulations.	Part 302–15	Taxable.
Miscellaneous expenses	$650 or $1,300; *or*	§ 302–16.102	Taxable.
	Maximum of 1 or 2 weeks basic pay	§ 302–16.103	Taxable.
Withholding tax allowance	25 percent of reimbursements, allowances, and direct payments to vendors.	Part 302–17, Subpart B.	Taxable.
Relocation income tax allowance	Based on income and tax filing status	Part 302–17, Subpart C.	Taxable.

§ 302–17.9 Who is responsible for knowing which relocation expenses are taxable and which expenses are nontaxable?

Both you and your agency must know which reimbursements and direct payments to vendors are taxable and which are nontaxable in your specific circumstances. When you submit a voucher for reimbursement, your agency must determine whether the reimbursement is taxable income at the Federal, state, and/or local level. Then, when you file your income tax returns, you must report the taxable allowances, reimbursements, and direct payments to vendors as income. Your agency is ultimately responsible for calculating and reporting withholding accurately and you are ultimately responsible for filing your taxes correctly.

§ 302–17.10 Which expenses should I report on my state tax returns if I am required to file returns in two different states?

In most cases, your state tax return for the state you are leaving should reflect your reimbursement or allowance, if any, for househunting expenses and your reimbursement or direct payments to vendors for real estate expenses at the home you are leaving. All other taxable expenses should be shown as income on the tax return you file in the state into which you have moved. However, you and your agency must carefully study the rules in both states and include everything that each state considers to be income on each of your state tax returns.

§ 302–17.11 When is an expense considered completed in a specific tax year?

A reimbursement, allowance, or direct payment to a vendor is considered completed in a specific tax year only if the money was actually disbursed to the

employee or vendor during the tax year in question.

§ 302–17.12 Where can I find additional information and guidance on WTA and RITA?

To find additional information and guidance on WTA and RITA, see:

(a) IRS Publication 521, Moving Expenses; and

(b) FTR Bulletins; GSA publishes additional information on RITA, including the illustrations and examples of various RITA computations, in FTR Bulletins which are updated as necessary. The current GSA FTR Bulletins may be found at *http://www.gsa.gov/bulletins.*

§ 302–17.13 How are taxes on extended TDY benefits and taxes on relocation allowances related?

(a) Taxes on extended TDY benefits are computed using exactly the same processes described in this Part for the WTA and RITA except that:

(1) The tax process for extended TDY benefits uses the term ''withholding tax allowance'' (WTA) in exactly the same fashion as the process for taxes on relocation allowances; however, in place of the term ''relocation income tax allowance,'' the tax process for extended TDY benefits uses the term ''extended TDY tax reimbursement allowance'' (ETTRA); and

(2) All benefits are taxable under extended TDY, so the sections of this Part that discuss which benefits are taxable and which are not have no relevance to ETTRA.

(b) See Part 301–11, Subpart F of this Title for additional information about taxes on extended TDY benefits.

Subpart B—The Withholding Tax Allowance (WTA)

§ 302–17.20 What is the purpose of the WTA?

The purpose of the WTA is to protect you from having to use part of your relocation expense reimbursements to pay Federal income tax withholding; it does not cover state taxes, local taxes, Medicare taxes, or Social Security taxes (see § 302–17.22(c) and (d)).

Note to § 302–17.20: If your agency offers you the choice, the WTA is optional to you. See §§ 302–17.61 through 302–17.69.

§ 302–17.21 What relocation expenses does the WTA cover?

The WTA covers certain allowances, reimbursements, and/or direct payments to vendors, to the extent that each of them is taxable income. It does not cover any allowance, reimbursement, or direct payment to a vendor that is nontaxable; that is, your agency will not give you a WTA for anything that is not considered taxable income to you (see Table 1 in § 302–17.8 for a summary of tax treatment). In particular, the WTA covers:

(a) En route meals and incidental expenses—Reimbursements for meals and incidental expenses while en route are taxable and, therefore, are covered by the WTA.

(b) One Househunting trip—Travel (including per diem and transportation) expenses for you (and your spouse) for one round trip to the new official station to seek permanent residence quarters. Househunting is covered regardless of whether it is reimbursed under the actual expense or lump sum method. (See Part 302–5 of this chapter.)

(c) Temporary quarters—Subsistence expenses for you and your immediate family during occupancy of temporary quarters. Temporary quarters are covered regardless of whether it is reimbursed under the actual expense or lump sum method. (See Part 302–6 of this chapter.)

(d) Extended storage expenses—Extended storage for a temporary change of station in CONUS or assignment to an isolated duty station in CONUS, but only if these expenses are allowed by Part 302–8 of this chapter and your agency's policy.

(e) Real estate expenses—Expenses for the sale of the residence at your old official station and purchase of a home at your new official station. This can also include expenses for settling an unexpired lease (''breaking'' a lease) at your old official station. (See Part 302–11 of this chapter. If you do not hold full title to the home you are selling or buying, see § 302–11.7 of this chapter.)

(f) Expenses paid by a relocation company to the extent such payments constitute taxable income to the employee. The extent to which such payments constitute taxable income varies according to the individual circumstances of your relocation, and by the state and locality in which you reside. (See IRS Publication 521, Moving Expenses, and appropriate state and local tax authorities for additional information.)

(g) Property Management Services—Payment for the services of a property manager for renting rather than selling a residence at your old official station. (See Part 302–15 of this chapter.)

(h) Miscellaneous expense allowance—Miscellaneous expenses for defraying certain relocation expenses not covered by other relocation benefits. (See Part 302–16 of this chapter.)

§ 302–17.22 What relocation expenses does the WTA not cover?

The WTA does not cover the following relocation expenses:

(a) Any reimbursement, allowance, or direct payment to a vendor that should not be reported as taxable income when you file your Federal tax return; this includes but is not limited to en route lodging and transportation, HHG transportation, and transportation of POVs.

(b) Reimbursed expenses for extended storage of household goods during an OCONUS assignment, if reimbursement is permitted under your agency's policy.

(c) State and local withholding tax obligations. To the extent that your state or local tax authority requires periodic (such as quarterly) tax payments, you are responsible to pay these from your own funds. Your agency reimburses you for substantially all of these payments through the RITA process, but your agency does not provide a WTA for them. If required to by state or local law, your agency may withhold these from your reimbursement.

(d) Additional taxes due under the Federal Insurance Contributions Act including Social Security tax, if applicable, and Medicare tax. Current law does not allow Federal agencies to reimburse transferees for these employment taxes on relocation benefits. However, your agency will deduct for these taxes from your reimbursements for taxable items.

(e) Any reimbursement amount that exceeds the actual expense paid or incurred. For example, if your reimbursement for the movement of household goods is based on the commuted rate schedule but your actual relocation expenses are less than that, your tax liability for the difference is not covered by the WTA or RITA.

(f) Home marketing incentive payment. In accordance with FTR part 302–14, your agency may not provide you either a WTA or RITA for this incentive.

(g) Any recruitment, relocation, or retention incentive payment that you receive. Any withholding of taxes for such payments is outside the scope of this regulation. Rather, it is covered by regulations issued by the Office of Personnel Management, Treasury's Financial Management Service, and the IRS.

(h) Any allowances, reimbursements, and/or direct payments to vendors not related to your relocation; for example, a reimbursement for office supplies would not be covered by the WTA, even if it occurred during your relocation.

§ 302–17.23 What are the procedures for my WTA?

(a) Your agency prepares a relocation travel authorization, which includes an estimate of the WTA and RITA, to obligate funds for your relocation.

(b) Your agency pays certain allowances to you. Your agency also pays vendors directly for other relocation expenses.

(c) Your agency instructs you as to whether to submit one voucher after you have completed your relocation or to submit vouchers at various points as your relocation progresses plus another when your relocation is completed.

(d) You submit your voucher(s) for reimbursement of certain relocation expenses.

(e) Your agency determines the extent to which each allowance, each item on your voucher(s), and each direct payment to a vendor is nontaxable or is taxable income to you under the IRC.

(f) For the taxable items, your agency calculates your WTA and any reimbursement(s) due to you in accordance with § 302–17.24. Your agency sets aside the amount of your WTA and pays the IRS as a withholding tax in accordance with IRS requirements.

§ 302–17.24 How does my agency compute my WTA?

(a) Your agency computes your WTA by applying the grossed-up withholding formula below each time your agency incurs a covered, taxable relocation expense, regardless of whether it is a reimbursement, allowance, or direct payment to a vendor.

(b) The law currently provides for a withholding rate of 25 percent for ''supplemental wages'' that are identified separately from regular wages (This rate has not always been 25 percent and may change in the future; GSA will revise the FTR to reflect any changes as quickly as possible, but users of this part should see IRS Publication 15, Employer's Tax Guide, for the most current rate). Taxable payments for relocation expenses are ''supplemental wages,'' as defined in IRS Publication 15. However, you owe taxes on the WTA itself because, like most other relocation allowances, it is taxable income. To reimburse you for the taxes on the WTA itself, your agency computes the WTA by multiplying the reimbursement, allowance, or direct payment to a vendor by 0.3333 instead of 0.25. That is:

$$WTA = R/(1-R) \times Expense$$

where R is the withholding rate for supplemental wages, or

$$WTA = 0.25/(1-0.25) \times Expense, \text{ or } 0.3333 \times Expense$$

Example 1 to Part 302–17: Calculating the Withholding Tax Allowance (WTA)

Househunting Trip Actual Expense Claim—$3,000

WTA = .3333 × $3,000 = $999.90

Temporary Quarters Lump Sum Allowance—$5,000

WTA = .3333 × $5,000 = $1,666.50

Total WTA $999.90 + $1,666.50 = $2,666.40

Note to § 302–17.24: Your agency must deduct withholding for Medicare and FICA (Social Security) from your reimbursement for expenses such as househunting, as the WTA does not cover such expenses.

Subpart C—The Relocation Income Tax Allowance (RITA)

§ 302–17.30 What is the purpose of the RITA?

(a) The purpose of the RITA is to reimburse you for any taxes that you owe that were not adequately reimbursed by the WTA. As discussed in § 302–17.24, the WTA calculation is based on the 25 percent income tax withholding rate applicable to supplemental wages. This may be higher or lower than your actual tax rate. The RITA, on the other hand, is based on your marginal tax rate, determined by your actual taxable income and filing status, which allows your agency to reimburse you for *substantially all* of your Federal income taxes. The RITA also reimburses you for any additional state and local taxes that you incur as a result of your relocation, because they are not reimbursed in the WTA process.

(b) The WTA may be optional to you. See § 302–17.61 for a discussion of criteria for choosing whether or not to accept the WTA. See §§ 302–17.62 through 302–17.69 for procedures if you choose not to accept the WTA.

§ 302–17.31 What are the procedures for calculation and payment of my RITA?

The procedures for the calculation and payment of your RITA depend on whether your agency has chosen to use a one-year or two-year RITA process. See Subpart F for the one-year process and Subpart G for the two-year process.

§ 302–17.32 Who chooses the one-year or two-year process?

Your agency or a major component of your agency determines whether it will adopt a one-year or two-year RITA process. Your agency may use the one-year RITA process for one or more specific categories of employees and the two-year process for one or more other categories.

§ 302–17.33 May I ask my agency to recalculate my RITA?

(a) Yes, you may ask your agency to recalculate your RITA provided you filed your ''Statement of Income and Tax Filing Status,'' and amended it, if necessary, in a timely manner. If, once you have completed all Federal, state, and local tax returns, you believe that your RITA should have been significantly different from the RITA that your agency calculated, you may ask your agency to recalculate your RITA. This is true for either the one-year or two-year process. With any request for recalculation, you must submit a statement explaining why you believe your RITA was incorrect.

(b) Please note that your agency may require that you also submit an amended ''Statement of Income and Tax Filing Status'' (if, for example, you inadvertently did not report some of your income in your original Statement), your actual tax returns, or both, as attachments to your request for recalculation.

Note to § 302–17.33: Please see § 302–17.55, if your agency uses a one-year RITA process, or § 302–17.68, if your agency uses a two-year RITA process, for more information about positive and negative RITA calculations.

Subpart D—The Combined Marginal Tax Rate (CMTR)

§ 302–17.40 How does my agency calculate my CMTR?

(a) The CMTR is a key element that greatly enhances the accuracy of the calculation of your RITA. Your agency uses the information on your ''Statement of Income and Tax Filing Status,'' as amended, to determine your CMTR, as follows (see Subparts F and G of this Part for information about the ''Statement of Income and Tax Filing Status'').

(b) The CMTR is, in essence, a combination of your Federal, state, and local tax rates. However, the CMTR cannot be calculated by merely adding the Federal, state, and local marginal tax rates together because of the deductibility of state and local income taxes from income on your Federal income tax return. The formula prescribed below for calculating the CMTR, therefore, is designed to adjust the state and local tax rates to compensate for their deductibility from income for Federal tax purposes.

(c) The formula for calculating the CMTR is:

$$CMTR = F + (1-F)S + (1-F)L$$

Where:

F = Your Federal marginal tax rate
S = Your state marginal tax rate, if any
L = Your local marginal tax rate, if any

Example 2 to Part 302–17: Calculating the Combined Marginal Tax Rate

Federal marginal tax rate—33%
State marginal tax rate—6%
Local marginal tax rate—3%
CMTR = 0.33 + (1.00 − 0.33)(.06) + (1.00 − 0.33)(0.03) = .3903 or 39.03%

(d) Your agency finds the Federal marginal tax rate by comparing your taxable income, as shown in your ''Statement of Income and Filing Status,'' to the Federal tax tables in the current year's Form 1040–ES instructions (see §§ 302–17.50—302–17.53 and §§ 302–17.63—302–17.65 for additional information on the ''Statement of Income and Tax Filing Status'').

(e) Your agency finds the state and local marginal tax rates that apply to you (if any) by comparing your taxable income to the most current state and/or local tax tables provided by the states and localities. Every Federal payroll office and every provider of tax calculation software has these tables readily available, and the tables are also available on the Web sites of the various state and local taxing authorities.

§ 302–17.41 Is there any difference in the procedures for calculating the CMTR, depending on whether my agency chooses the one-year or two-year RITA process?

No. The procedures for calculating the CMTR are the same for the one-year and two-year RITA processes.

§ 302–17.42 Which state marginal tax rate(s) does my agency use to calculate the CMTR if I incur tax liability in more than one state, and how does this affect my RITA and my state tax return(s)?

If two or more states that are involved in your relocation impose an income tax on relocation benefits, then your relocation benefits may be taxed by both states. Most commonly, your old and new duty stations are in the two states involved. The following table lays out the possibilities:

If:	But:	Your agency will use the following as the state marginal tax rate in the CMTR:	Your RITA will include an appropriate allowance for:	Your action:
Only one involved state has a state income tax.		The marginal tax rate of the one state that taxes income.	Taxes you incur in that state.	You pay the taxes required by the state that taxes income.
Each involved state taxes a different set of your relocation benefits, with no overlap.		The average of the marginal tax rates for each state involved.	Taxes you incur in all involved states.	You file tax returns in each involved state and pay the applicable taxes.
Two or more involved states tax some of your same relocation benefits.	All involved states *allow* you to adjust or take a credit for income taxes paid to other states.	The marginal tax rate of the state that has the highest state income tax rate.	Taxes you incur in all involved states.	You file tax returns in each involved state, take the appropriate credits and/or adjustments, and pay the applicable taxes.
Two or more involved states tax some of the same relocation benefits.	One or more involved states *does not allow* you to adjust or take a credit for income taxes paid to other states.	The sum of all applicable state marginal tax rates.	Taxes you incur in all involved states.	You file tax returns in each involved state, and pay the applicable taxes. This may result in paying taxes in more than one state on the same relocation benefits.

§ 302–17.43 What local marginal tax rate(s) does my agency use?

(a) If you incur local tax liability, you provide the applicable marginal tax rate(s) on your ''Statement of Income and Tax Filing Status''. Your agency validates the applicable local marginal tax rate(s) and uses it (them) in the CMTR formula.

(b) If you incur local income tax liability in more than one locality, then your agency should follow the rules described for state income taxes in § 302–17.42 to calculate the local marginal tax rate that will be used in the CMTR formula and to compute your RITA, and you should follow the rules in § 302–17.42 to determine your actions.

(c) If a locality in which you incur income tax liability publishes its tax rates in terms of a percentage of your Federal or state taxes, then your agency must convert that tax rate to a percentage of your income to use it in computing your CMTR. This is accomplished by multiplying the applicable Federal or state tax rate by the applicable local tax rate. For example, if the state marginal tax rate is 6 percent and the local tax rate is 50 percent of state income tax liability, the local marginal tax rate stated as a percentage of taxable income would be 3 percent.

§ 302–17.44 What if I incur income tax liability to the Commonwealth of Puerto Rico?

A Federal employee who is relocated to or from a point, or between points, in the Commonwealth of Puerto Rico may be subject to income tax by both the Federal Government and the government of Puerto Rico. However, under current Puerto Rico law, an employee receives a credit on his/her Puerto Rico income tax for the amount of taxes paid to the Federal Government. Therefore:

(a) If the applicable Puerto Rico marginal tax rate, as shown in the tables provided by the Commonwealth of Puerto Rico, is *equal to or lower* than the applicable Federal marginal tax rate, then your agency uses the Federal marginal tax rates and the formula in § 302–17.40(c) in calculating your CMTR.

(b) If the applicable Puerto Rico marginal tax rate, as shown in the tables provided by the Commonwealth of Puerto Rico, is *higher* than the applicable Federal marginal tax rate, and if all of the states involved either have no income tax or *allow* an adjustment or credit for income taxes paid to the other state(s) and Puerto Rico, then your agency uses the rate for Puerto Rico in place of the Federal marginal tax rate in the formula in § 302–17.40(c).

(c) If the applicable Puerto Rico marginal tax rate, as shown in the tables provided by the Commonwealth of

Puerto Rico, is *higher* than the applicable Federal marginal tax rate and one or more of the state(s) involved *does not allow* an adjustment or credit for income taxes paid to the other state(s) and/or Puerto Rico, then your agency uses the formula below:

CMTR = P + S + L

Where:

P = Your Puerto Rico marginal tax rate
S = Your state marginal tax rate, if any
L = Your local marginal tax rate, if any

§ 302–17.45 What if I incur income tax liability to the Commonwealth of the Northern Mariana Islands or any other territory or possession of the United States?

If you are relocated to, from, or within the Commonwealth of the Northern Mariana Islands or any territory or possession of the United States that is covered by the definition in § 302–17.1, your agency will have to determine the tax rules of that locality and then include those taxes in your RITA calculation, as applicable.

Subpart E—Special Procedure If a State Treats an Expense as Taxable Even Though It Is Nontaxable Under the Federal IRC

§ 302–17.46 What does my agency do if a state treats an expense as taxable even though it is nontaxable under the Federal IRC?

If one or more of the states where you have incurred tax liability for relocation expenses treats one or more relocation expenses as taxable, even though it (they) are nontaxable under Federal tax rules, you may be required to pay additional state income tax when you file tax returns with those states. In this case, your agency calculates a state gross-up to cover the additional tax liability resulting from the covered relocation expense reimbursement(s) that are nontaxable under Federal, but not state tax rules. Your agency calculates the state gross-up and then adds that amount to your RITA. Your agency will use this formula to calculate the state gross-up:

$$\text{State Gross-up} = S \times \left(\frac{1-F}{1-C}\right) \times N$$

F = Federal Marginal Tax Rate
S = State Marginal Tax Rate
C = CMTR
N = Dollar amount of covered relocation expenses that are nontaxable under Federal tax rules but are taxable under state tax rules

All information, except ''N,'' can be found in previous calculations (if moving to, from, or within Puerto Rico, follow the rules in 302–17.44 to determine when to substitute ''P'' for ''F'').

''N'' is determined as follows:

1. Take the dollar amount of reimbursements, allowances, and direct payments to vendors treated as nontaxable under Federal tax rules.

2. Subtract the dollar amount of reimbursements, allowances, and direct payments to vendors treated as nontaxable by the state.

3. The difference represents ''N.''

Note to § 302–17.46: This calculation is the same, regardless of whether your agency has chosen to use the one-year or two-year RITA process.

Subpart F—The One-Year RITA Process

§ 302–17.50 What information should I provide to my agency to make the RITA calculation possible under the one-year process?

You should provide the information required in the ''Statement of Income and Tax Filing Status'' as follows:

STATEMENT OF INCOME AND TAX FILING STATUS—ONE-YEAR PROCESS

The following information, which my agency will use in calculating the RITA to which I am entitled, was shown on the Federal, state, and local income tax returns that I (or my spouse and I) filed for the 20 _____ tax year (this should be the most recent year in which you filed).

Federal Filing status:

☐ Single ..... ☐ Head of Household
☐ Married Filing Jointly ..... ☐ Qualifying Widow(er)
☐ Married Filing Separately.

(a) Taxable income as shown on my (our) IRS Form 1040: $ _____

Significant future changes in income (including cost of living raises) that you can foresee for the current year:
____Increase ____Decrease ____No Foreseeable Changes

(b) Approximate net amount of this (these) change(s): $ _____

(c) Predicted taxable income for the current tax year 20 _____ = Sum of (a) and (b) = $ _____

State you are moving out of: _____

Filing status for the state moving out of: _____

Marginal Tax Rate: _____%

State you are moving into: _____

Filing status for the state moving into: _____

Marginal Tax Rate: _____%

Locality you are moving out of: _____

Filing status for the locality moving out of: _____

Marginal Tax Rate: _____%

Locality you are moving into: _____

Filing status for the locality moving into: _____

Marginal Tax Rate: _____%

The above information is true and accurate to the best of my (our) knowledge. I (we) agree to notify the appropriate agency official of any significant changes to the above so that appropriate adjustments to the RITA can be made.

STATEMENT OF INCOME AND TAX FILING STATUS—ONE-YEAR PROCESS—Continued

Employee's signature	Date
Spouse's signature (if filing jointly)	Date

§ 302–17.51 When should I file my ''Statement of Income and Tax Filing Status'' under the one-year process?

For the one-year process, you should file this form as soon as you receive your relocation orders, or as soon as you file your tax returns for the most recent tax year, whichever occurs later.

§ 302–17.52 When should I file an amended ''Statement of Income and Tax Filing Status'' under the one-year process?

You should submit an amended ''Statement of Income and Tax Filing Status'' to your agency under the one-year process whenever the information on it changes, and you should continue to amend it until you have received the last W–2 from your agency in connection with a specific relocation. In particular, you should file an amended version of this statement whenever:

(a) Your filing status changes;

(b) Your income changes enough that your income, including WTA and RITA, might put you into a different tax bracket; or

(c) You have taxable relocation expenses in a second or third calendar year.

Note to § 302–17.52: Your agency will not be able to use your original or amended ''Statement of Income and Tax Filing Status'' if you file it after the cut-off date established by your agency in accordance with § 302–17.54(b).

§ 302–17.53 What happens if I do not file and amend the ''Statement of Income and Tax Filing Status'' in a timely manner?

If you don't file the ''Statement of Income and Tax Filing Status'' and/or amend it when necessary, your agency will switch to the 2-year process, and because the WTA is an advance of your income tax expenses, you will be liable to repay the full amount of the WTA that your agency has paid to the IRS. See Subpart G of this Part.

§ 302–17.54 How does my agency calculate my RITA under the one-year process?

(a) Your agency provides allowances to you, reimburses you for vouchers that you submit, and pays certain relocation vendors directly, all during the calendar year as described in Subpart B of this Part. Some of these reimbursements, allowances, and direct payments to vendors are taxable income to you, the employee, as described in subpart A of this part. Your agency computes a WTA and reports the WTA to the IRS as taxes withheld for you for each of these taxable reimbursements, allowances, and direct payments to vendors. The WTA may be optional to you. However, if your agency is using a one-year RITA process, there is no advantage to you in choosing not to receive the WTA, because your agency will adjust the WTA payment to the IRS. See § 302–17.55(a)(1).

(b) Your agency establishes a cutoff date (for example, December 1), after which it will not issue reimbursements or allowances to you or make direct payments to relocation vendors for the rest of the calendar year.

(c) If the information on your ''Statement of Income and Tax Filing Status'' changes after you have submitted the initial version, you must submit an amended ''Statement of Income and Tax Filing Status'' no later than your agency's cutoff date.

(d) During the period between the cutoff date and the end of the calendar year, your agency calculates your RITA.

(e) Your RITA is itself taxable income to you. To account for taxes on the RITA, your agency will gross-up your RITA by using a gross-up formula that multiplies the grossed-up CMTR by the total of all covered taxable relocation benefits, and then subtracts your grossed-up WTA from that total. That is:

$$RITA = \left(\left(\frac{C}{1-C} \right) \times R \right) - Y$$

Where

C = CMTR

R = Reimbursements, allowances, and direct payments to vendors covered by WTA

Y = Total grossed-up WTA paid during the current year.

§ 302–17.55 What does my agency do once it has calculated my RITA under the one-year process?

(a) Your RITA is likely to be different from the sum of the WTA computed and reported during the year, because the WTA is calculated using a flat rate, established by the IRC, while the RITA is calculated using the CMTR. Therefore:

(1) If the calculation above results in a negative value (that is, if your agency's calculation shows that it withheld and reported too much money as WTA), then your agency will send an adjustment to the IRS using Form 941. In this case, your agency does not make a RITA payment to you because you do not need additional funds to pay your taxes. That is, everything you need to pay substantially all of your taxes was included in the adjusted WTA, and that is the amount that will appear on your Form W–2.

(2) If the calculation above results in a positive value (that is if your agency's calculation shows that it did not withhold enough money for your income taxes), then your agency will pay your RITA to you before the end of the calendar year and report it to the IRS as part of your income for that year.

(b) Shortly after the end of the calendar year, your agency will provide one or two W–2 Forms to you. At your agency's discretion, you may receive one W–2 that includes all of your taxable relocation expenses, WTA, and RITA (if any), along with your payroll wages, or you may receive one W–2 for your payroll wages and a separate one for your taxable relocation expenses, WTA, and RITA.

§ 302–17.56 What do I do, under the one-year process, once my agency has provided my W–2(s)?

(a) You must use all W–2(s) that you have received to file your tax returns. On those returns, you must include all taxable relocation expenses shown on your W–2(s) as income, including your WTA and RITA (if any). Please note that you must also include all WTA as

withholding, in addition to the standard withholding from your payroll wages.

(b) If you finished your relocation within one calendar year, and your agency paid all of your relocation reimbursements, allowances, and direct payments to vendors in the same calendar year, before the cutoff date, then your tax returns for that calendar year are the end of your relocation tax process. If, on the other hand, your agency reimburses you for relocation expenses, or pays allowances or relocation vendors on your behalf, during a second (and possibly a third) calendar year, then you and your agency repeat the process above for each of those years.

Subpart G—The Two-Year RITA Process

§ 302–17.60 How are the terms ''Year 1'' and ''Year 2'' used in the two-year RITA process?

(a) Year 1 is the calendar year in which the agency reimburses you for a specific expense, provides an allowance, or pays a vendor directly. If your reimbursements, allowances, and/or direct payments to vendors occur in more than one calendar year, you will have more than one Year 1.

(b) Year 2 is the calendar year in which you submit your RITA claim and your agency pays your RITA to you.

(c) In most cases:

(1) For every Year 1 you will have a corresponding Year 2;

(2) Every Year 2 immediately follows a Year 1; and

(3) Year 2 is the year in which you file a tax return reflecting your remaining tax liability for taxable reimbursement(s), allowance(s), and/or direct payments to vendors in each Year 1.

(d) The table below offers a graphic explanation of Year 1 and Year 2, assuming that you begin your relocation in 2012 and incurred additional approved expenses in 2013.

January 2012	2013	2014
First Year 1 ..	Second Year 1 *and* Year 2 for 2012.	Year 2 for 2013.

§ 302–17.61 Is the WTA optional under the two-year process?

(a) Yes. If your agency makes the WTA optional to you, you may choose to not receive the WTA.

(b) WTA is paid at a rate of 25 percent. When deciding whether or not to receive the WTA, you should consider the following:

(1) If you expect that your marginal Federal tax rate will be 25 percent or higher for the calendar year for which you received the majority of your relocation reimbursements, you may want to elect to receive the WTA, because your initial reimbursements will be higher, as shown in the following Example 3 to part 302–17).

Example 3 to Part 302–17: Claims Paid with and without WTA.

Allowance computed without WTA:		
	$1,300.00	Miscellaneous Expenses Allowance.
Minus	325.00	Federal Withholding Tax (25%).
Minus	18.85	Medicare Withholding Tax (1.45%).
Minus	80.60	FICA (Social Security) Tax (6.20%).
Equals	875.55	Amount due to the transferee.
Allowance computed with WTA:		
	1,300.00	Miscellaneous Expenses Allowance.
Plus	433.33	Withholding Tax Allowance (25% of $1733.33).
Equals	1,733.33	Net allowance with WTA.
Minus	433.33	Federal Withholding Tax (25%).
Minus	25.13	Medicare Withholding Tax (1.45%).
Minus	107.47	FICA (Social Security) Tax (6.20%).
Equals	1,167.40	Amount due to the transferee.

(2) If you expect that your marginal Federal tax rate will be less than 25 percent, you may want to decline the WTA to avoid or limit possible overpayment of the WTA, the so-called ''negative RITA'' situation. In a ''negative RITA'' situation, you must repay some of the WTA in Year 2. However, even if your marginal Federal tax rate will be less than 25 percent, you may want to accept the WTA so that your initial reimbursement is larger. Example 3 shows the relative reimbursements you would receive by accepting and declining the WTA, in the case of a hypothetical $1,300 Miscellaneous Expense Allowance.

§ 302–17.62 What information do I put on my tax returns for Year 1 under the two-year process?

(a) Your agency provides allowances to you, reimburses you for vouchers that you submit, and pays certain relocation vendors directly, all during the same calendar year, as described in Subpart B of this Part. Some of these reimbursements, allowances, and direct payments to vendors are taxable income to you, the employee. Your agency computes a WTA and reports that withholding to the IRS for each of these that is taxable. This is Year 1 of the two-year process.

(b) If your agency makes the WTA optional to you and you have chosen not to receive the WTA, then your agency computes withholding tax for each taxable reimbursement, allowance, and direct payment, and reports that withholding to the IRS. See Example 3 to Part 302–17 in this section.

(c) Shortly after the end of the calendar year, your agency provides one or more W–2 forms to you. At its discretion, your agency may include all of your taxable relocation expenses and WTA (if any) in one W–2, along with your regular payroll wages, or it may provide you one W–2 for your regular payroll wages and a separate W–2 for your taxable relocation expenses and WTA (if any).

(d) At approximately the same time as your agency provides your W–2(s), it also may provide you an itemized list of all relocation benefits and the WTA (if any) for each benefit. You should use this statement to verify that your agency has included all covered taxable items in its calculations and to check your agency's calculations.

(e) You must submit all W–2s that you have received with your Year 1 tax returns. On those returns, you must include all taxable relocation expenses during the previous year as income. Furthermore, you must include the WTA (if any) as tax payments that your agency made for you during the previous year, in addition to the regular withholding of payroll taxes from your salary.

§ 302–17.63 What information should I provide to my agency to make the RITA calculation possible under the two-year process?

You should provide the information required in the ''Statement of Income and Tax Filing Status'' shown below. This information should be taken from the income tax returns you filed for Year 1.

STATEMENT OF INCOME AND TAX FILING STATUS—TWO-YEAR PROCESS

The following information, which my agency will use in calculating the RITA to which I am entitled, was shown on the Federal, state and local income tax returns that I (or my spouse and I) filed for the 20_____ tax year.

Federal Filing status:

☐ Single ☐ Head of Household

☐ Married Filing Jointly ☐ Qualifying Widow(er)

☐ Married Filing Separately.

Taxable income as shown on my (our) IRS Form 1040: $_____

State you are moving out of: _____

Filing status for the state moving out of: _____

Marginal Tax Rate: _____%

State you are moving into: _____

Filing status for the state moving into: _____

Marginal Tax Rate: _____%

Locality you are moving out of: _____

Filing status for the locality moving out of: _____

Marginal Tax Rate: _____%

Locality you are moving into: _____

Filing status for the locality moving into: _____

Marginal Tax Rate: _____%

The above information is true and accurate to the best of my (our) knowledge. I (we) agree to notify the appropriate agency official of any significant changes to the above so that appropriate adjustments to the RITA can be made.

_____ _____

Employee's signature Date

_____ _____

Spouse's signature (if filing jointly) Date

§ 302–17.64 When should I file my ''Statement of Income and Tax Filing Status'' and RITA claim under the two-year process?

For the two-year process, you should file the ''Statement of Income and Tax Filing Status'' in Year 2, along with your RITA claim, after you file your income tax return. If your agency pays any taxable expenses covered by the WTA (if any) in more than one year, then you will have to file a new ''Statement of Income and Tax Filing Status'' each year. Your agency establishes the deadline each year for filing of your Statement.

§ 302–17.65 What happens if I do not file the ''Statement of Income and Tax Filing Status'' in a timely manner?

The WTA is an advance on your income tax expenses, thus if you don't file the ''Statement of Income and Tax Filing Status'' in a timely manner, your agency will require you to repay the entire amount of the withholding and WTA (if any) that the agency has paid on your behalf.

§ 302–17.66 How do I claim my RITA under the two-year process?

(a) To claim your RITA under the two-year process, you must submit a voucher and attach the ''Statement of Income and Tax Filing Status,'' as discussed in §§ 302–17.63–302–17.65.

(b) Your voucher must claim a specific amount. However, your agency will calculate your actual RITA after you submit your RITA voucher and your ''Statement of Income and Tax Filing Status;'' the amount you claim on your voucher does not enter into that calculation. You should perform the RITA calculation for yourself, as a check on your agency's calculation, but you are not required to put the ''right answer'' on the voucher you submit to claim your RITA.

§ 302–17.67 How does my agency calculate my RITA under the two-year process?

(a) Your agency calculates your RITA after receipt of your RITA voucher.

(b) Your RITA is itself taxable income to you. To account for taxes on the RITA, your agency will gross-up your RITA by applying the CMTR to the final amount rather than the reimbursed amount.

(c) Thus, your agency calculates your RITA by multiplying the Combined Marginal Tax Rate (CMTR) (using the state and local tax tables most current at the time of the RITA calculation) by the total of all covered taxable relocation benefits during the applicable Year 1, and then subtracting your WTA(s), if any, from the same Year 1 from that total. That is:

$$RITA = \left(\left(\frac{C}{1-C} \right) \times R \right) - Z$$

Where

C = CMTR

R = Reimbursements, allowances, and direct payments to vendors covered by WTA during Year 1

Z = Total grossed-up WTAs paid during Year 1.

Note to § 302–17.67(c) – If your agency offers you the choice, the WTA is optional to you. If the employee has declined the WTA, enter zero for element Z in the above calculation.

§ 302–17.68 What does my agency do once it has calculated my RITA under the two-year process?

(a) Your RITA is likely to be different from the sum of the WTA(s) paid during Year 1, if any, because the WTA is calculated using a flat rate, established by the IRC, while the RITA is calculated using the CMTR. Therefore:

(1) If the RITA calculation in § 302–17.67 results in a negative value (that is, if your agency's calculation shows that it withheld and reported too much money as income taxes), then your agency will report this result to you and will send you a bill for the difference, to repay the excess amount that it sent to the IRS on your behalf as withheld income taxes. The IRS will credit you for the full amount of withheld taxes, including the excess amount, when you file your income tax return for Year 1; therefore, you must repay the excess amount to your agency within 90 days, or within a time period set by your agency. If you are required to repay an amount in Year 2 that was included as wages on your W–2 in Year 1, you may be entitled to a miscellaneous itemized deduction on your Federal income tax return in Year 2. For more information, see IRS Publication 535, ''Business Expenses.'' If your agency chooses to offer you the choice, then you may want to decline the WTA to avoid this so-called ''negative RITA'' situation.

(2) If the RITA calculation in § 302–17.67 results in a positive value (that is, if your agency's calculation shows that it did not withhold enough money as income taxes), then your agency will pay your RITA to you before the end of Year 2 and will report it to the IRS as part of your income for that year. Also, after your agency has paid your RITA to you, it will provide a W–2 that shows your RITA as taxable income to you.

(b) At your agency's discretion, you may receive one W–2 that includes all of your taxable relocation expenses, WTA (if any), and RITA (if any), along with your regular payroll wages, or you may receive one W–2 for your regular payroll wages and a separate one for your taxable relocation expenses, WTA, and RITA.

§ 302–17.69 How do I pay taxes on my RITA under the two-year process?

When income taxes are due for Year 2, you must report your RITA, if any, as taxable income on your Federal, state, and local tax returns.

(a) If your relocation process results in only one Year 2, or if the previous year was your last Year 1, your RITA is the only amount that you report as income resulting from your relocation for that Year 2.

(b) If, on the other hand, your relocation process results in more than one Year 2 (if, for example, you incurred relocation expenses during more than one calendar year), then, except for your last Year 2, you will need to report reimbursements, allowances, direct payments to vendors, and WTA(s), if any, for succeeding Year 1's at the same time that you report each Year 2's RITA.

(c) See the table in § 302–17.60 for a graphic explanation of Year 1 and Year 2.

Subpart H—Agency Responsibilities

§ 302–17.100 May we use a relocation services provider to comply with the requirements of this part?

Yes. You may use the services of relocation companies to manage all aspects of relocation, including the RITA computation. Agencies that relocate few employees or do not have the resources to manage the complexity of relocation may find that the use of relocation companies is a practical alternative. As another alternative, agencies with infrequent requirements for relocation or with inadequate internal resources may establish an interagency agreement with one or more other agencies to pool resources to provide this service.

§ 302–17.101 What are our responsibilities with regard to taxes on relocation expenses?

To ensure that all provisions of this Part are fulfilled, you must:

(a) Prepare a relocation travel authorization that includes an estimate of the WTA and RITA, to obligate the funds that will be needed.

(b) Determine, in light of the specific circumstances of each employee relocation, which reimbursements, allowances, and direct payments to vendors are taxable, and which are nontaxable.

(c) Decide whether or not you will allow individual employees and/or categories of employees to choose not to receive the WTA.

(d) Calculate the WTA, and credit the amount of the WTA to the employee at the time of reimbursement.

(e) Prepare the employee's W–2 Form(s) and ensure that it (they) reflect(s) the WTA.

(f) Provide each employee an itemized list of relocation expenses after the end of each calendar year in which you provided an allowance, reimbursement, or direct payment to a vendor.

(g) Establish processes for identifying the relevant Federal, state, and local marginal tax rates and for keeping that information current.

(h) Establish processes for identifying states that treat a reimbursement or direct payment to a vendor as taxable even though it is nontaxable under the Federal IRC, and for keeping that information current.

(i) Calculate the employee's CMTR(s).

(j) Decide whether you will use the one-year or two-year RITA process and whether you will use different processes (that is, one-year or two-year) for different groups of employees within your agency.

(k) Make sure the RITA calculation is done correctly and in a timely manner, whether your policies call for the calculation to be done by you or by a third party.

(l) Make sure that payment of the RITA occurs in a timely manner (this is especially critical for the one-year process).

(m) Develop criteria for accepting and rejecting requests for recalculation of RITA.

(n) Establish a process for recalculating the RITA when the employee's request for recalculation is accepted.

(o) Consult with IRS for clarification of any confusion stemming from taxes on relocation expenses.

§ 302–17.102 What happens if an employee fails to file and/or amend a ''Statement of Income and Tax Filing Status'' prior to the required date?

(a) If a relocating employee does not file and/or amend a ''Statement of Income and Tax Filing Status'' prior to the required date, and you are using a one-year RITA process, you are to switch to a two-year RITA process and send a written warning to the employee reminding them of the requirement and informing them that if they do not submit the ''Statement of Income and Tax Filing Status,'' you may declare the entire amount of the WTA forfeited.

(b) If the relocating employee does not file and/or amend a Statement of Income and Tax Filing Status prior to the required date, and you are using a two-year RITA process, you are to send the employee a written warning informing them they have 60 days to file or amend their ''Statement of Income

and Tax Filing Status,'' or you will declare the WTA that you have already paid on his/her behalf forfeited and due as a debt to the Government.

(c) If the relocating employee chose not to receive the WTA and fails to file a Statement of Income and Tax Filing Status prior to your required date, you are to send the employee a written warning that they have 60 days to file. If the employee still fails to file, you may close your case file and refuse any later claims for RITA related to this specific relocation.

§ 302–17.103 What are the advantages of choosing a 1-year or a 2-year RITA process?

(a) The one-year process is simpler. It reimburses the employee more quickly, and it eases the administrative burden required to calculate the RITA. Most importantly, the one-year process eliminates the possibility of charging employees for excess payments to the IRS, the so-called ''negative RITA.''

(b) The two-year process provides a somewhat more accurate calculation of the additional taxes the employee incurs because it is based on the employee's actual Year One taxable income and filing status rather than the taxable income and filing status from the year before.

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