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DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Housing Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 1940

RIN 0570–AA30

Methodology and Formulas for Allocation of Loan and Grant Program Funds

AGENCY: Rural Business-Cooperative Service, Rural Housing Service, Rural Utilities Service, and Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: The Rural Business-Cooperative Service (RBS) is publishing this final rule for allocating program funds to its State Offices. This final rule adds two programs—the Rural Energy for America Program (REAP) and the Intermediary Relending Program (IRP). In addition, this final rule revises State allocation formulae to account for changes in data reported by the U.S. Bureau of the Census' decennial Census. Finally, this final rule revises the weight percentages associated with each of the allocation criteria; provides flexibility in determining when not to make State allocations for a program; restricts the use of the transition formula and changes the limitations on how much program funds can change when the transition formula is used; adds provisions for making State allocation for other RBS programs, including new ones; and provides consistency, where necessary, in the allocation of RBS program funds to State Offices.

DATES: *Effective Date:* This rule is effective October 1, 2014.

FOR FURTHER INFORMATION CONTACT: Chad Parker, Deputy Admininstrator Business Programs, Rural Business-Cooperative Service, U.S. Department of Agriculture, STOP 3220, 1400 Independence Avenue SW., Washington, DC 20250–3225; email: *chad.parker@wdc.usda.gov;* telephone (202) 720–7558.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, Classification

This final rule has been determined to be not significant for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget.

Programs Affected

The Catalog of Federal Domestic Assistance Program numbers for the programs affected by this action are 10.352, Intermediary Relending Program; 10.768, Business and Industry Guaranteed Loan Program; 10.769, Rural Business Enterprise Grant Program; 10.773, Rural Business Opportunity Grant Program, 10.868, Rural Energy for America Program.

Executive Order 12372, Intergovernmental Consultation

This final rule is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Executive Order 12988, Civil Justice Reform

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. The Agency has determined that this final rule meets the applicable standards provided in section 3 of the Executive Order. Additionally, (1) all State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to the rule; and (3) administrative appeal procedures, if any, must be exhausted before litigation against the Department or its agencies may be initiated, in accordance with the regulations of the National Appeals Division of USDA at 7 CFR part 11.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' Rural Development has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 et seq., an Environmental Impact Statement is not required.

Unfunded Mandates Reform Act

This final rule contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995) for State, local, and tribal governments or the private sector. Thus, this final rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

Regulatory Flexibility Act

Under section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities because the action will not affect a significant number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601). The Agency made this determination based on the fact that this action only impacts internal Agency procedures for determining how much of available program funds are allocated to each State. Small entities will not be impacted to a greater extent than large entities.

Executive Order 13132, Federalism

The policies contained in this final rule do not have any substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor does this final rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with States is not required.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This executive order imposes requirements on Rural Development in the development of regulatory policies that have tribal implications or preempt tribal laws. Rural Development has determined that this final rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the

relationship or the distribution of powers and responsibilities between the Federal Government and Indian tribes. Thus, this final rule is not subject to the requirements of Executive Order 13175.

Paperwork Reduction Act

There are no reporting and recordkeeping requirements associated with this final rule.

E-Government Act Compliance

Rural Development is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies, to provide increased opportunities for citizens to access Government information and services electronically.

I. Background

On March 18, 2014, RBS published a notice in the **Federal Register** (79 FR 15052) proposing to amend its regulations for allocating program funds among its State Offices. RBS proposed this action, in part, in order to provide a regulatory basis for allocating funds for REAP, Value-Added Producer Grant Program VAPG, and IRP. In addition, because of changes to the reporting of data by the Census Bureau, RBS needed to revise data sources to be used for income and unemployment rates. The other changes proposed were mainly adminstrative in nature.

The comment period for the proposed rule closed on May 19, 2014. RBS received comment letters from three entities—two national trade organizations and one individual. Their comments and the RBS responses to those comments are presented below.

II. Summary of Changes to the Proposed Rule

For the reasons discussed in the following section, RBS made one change to the proposed rule in response to comments from the public. RBS also made two additional changes. One change provides additional flexibility in determining which 5-year data set in the American Community Survey (ACS) would be used. This change occurs in § 1940.588(a)(2)(ii)(B) and § 1940.589(a)(2)(ii)(B). The other change removes from § 1940.588(a)(5) and § 1940.589(a)(5) the sentence ''Jurisdictions receiving administrative allocations do not receive base allocations.'' This change allows a jurisdiction to receive the base allocation whenever the administrative allocation is less than the base allocation.

III. Summary of Comments and Responses

RBS received three comment letters in response to the proposed rule. Two of the commenters are national stakeholder organizations; the third commenter is an individual. The comments made by the two stakeholder organizations and RBS' response are presented below. The third commenter did not specifically address the issues announced in the proposed rule and therefore RBS is not responding to this commenter.

Comment: Two commenters objected to making State allocations for VAPG and recommended that VAPG be removed from the rule. The commenters provided the following reasons:

- VAPG is a national competitive grant program and should be administered like one, including establishing as quickly as possible a robust peer review evaluation process;
- Administering the program at the State level is inefficient;
- The current multi-tiered review system involving federal, State, and independent review is critical to the program's success and should not only be maintained but enhanced;
- Current funding levels are not enough to sustain an effective competitive grants program if implemented at the State level;
- The proposed split application review process would be complicated and would inevitably lead to confusion for agency staff and for applicants and reviewers; and
- The idea of finalizing a rule for a brand new State allocation system and then perhaps not using the new system is unconvincing.

Response: In consideration of these comments, RBS has decided not to include the VAPG program in this rulemaking. While VAPG is not included in this rulemaking, RBS notes that the provisions of § 1940.593 enables RBS to establish a state allocation process for the VAPG program as well as for any other existing RBS program and any new RBS program in the future.

List of Subjects for 7 CFR part 1940

Administrative practice and procedure, Agriculture, Allocations, Grant programs—Housing and community development, Loan programs—Agriculture, Rural areas.

For the reasons set forth in the preamble, part 1940 of title 7 of the Code of Federal Regulations is amended as follows:

PART 1940—GENERAL

■ 1. The authority citation for part 1940 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

Subpart L—Methodology and Formulas for Allocation of Loan and Grant Program Funds

■ 2. Section 1940.588 is revised to read as follows:

§ 1940.588 Business and Industry Guaranteed and Direct Loans, Rural Business Enterprise Grants, Rural Business Opportunity Grants, and Intermediary Relending Program.

The Agency will allocate funds to the States each Federal fiscal year for the programs identified in this section using the procedures specified in paragraph (a) of this section. If the Agency determines that it will not allocate funds to the States for a program identified in this section in a particular Federal fiscal year, the Agency will announce this decision in a notice published in the **Federal Register**. The conditions under which the Agency will not allocate a program's funds to the States are identified in paragraph (b) of this section.

(a) *Procedures for allocating funds to the States.* Each Federal fiscal year, the Agency will use the amount available to the program and the procedures identified in paragraphs (a)(2) through (10) of this section to determine the amount of program funds to allocate to each of the States. The Agency will make the allocation calculation each Federal fiscal year.

(1) *Amount available for allocations.* See § 1940.552(a) of this subpart.

(2) *Basic formula criteria, data source and weight.* See § 1940.552(b) of this subpart.

(i) The criteria used in the basic formula are:

(A) State's percentage of national rural population.

(B) State's percentage of national rural population with incomes below the poverty level.

(C) State's percentage of national nonmetropolitan unemployment.

(ii) The data sources for each of the criteria identified in paragraph (a) of this section are:

(A) For the criterion specified in paragraph (a)(2)(i)(A), the most recent decennial Census data.

(B) For the criterion specified in paragraph (a)(2)(i)(B), 5-year income data from the American Community Survey (ACS) or, if needed, other Census Bureau data.

(C) For the criterion specified in paragraph (a)(2)(i)(C), the most recent Bureau of Labor Statistics data.

(iii) Each criterion is assigned a specific weight factor according to its

relevance in determining need. The percentage representing each criterion is multiplied by the weight factor and summed to arrive at State Factor (SF). The SF cannot exceed 0.05. The Agency may elect to use different weight factors than those identified in this paragraph by publishing a timely notice in the **Federal Register**.

SF = (criterion (a)(2)(i)(A) × 25 percent)
+ (criterion (a)(2)(i)(B) × 50 percent)
+ (criterion (a)(2)(i)(C) × 25 percent)

(iv) The Agency will recalculate, as necessary, each criterion specified in paragraph (a)(2)(i) of this section each year. In making these recalculations, the Agency will use the most recent data available to the Agency as of October 1 of the fiscal year for which the Agency is making State allocations. Each criterion's value determined at the beginning of a fiscal year for a program will be used for that entire fiscal year, regardless of when that fiscal year's funding becomes available for the program.

(3) *Basic formula allocation.* See § 1940.552(c) of this subpart.

(4) *Transition formula.* The transition provisions specified in § 1940.552(d) of this subpart apply to the programs identified in this section except as follows:

(i) The transition formula will be used only when the weight factors identified in paragraph (a)(2)(iii) of this section are modified; and

(ii) When the transition formula is used, there will be no upper limitation on the amount that a State's allocation can increase over its previous year's allocation and the maximum percentage that funding will be allowed to decrease for a State will be 10 percent from its previous year's allocation.

(5) *Base allocations.* See § 1940.552(e) of this subpart.

(6) *Administrative allocations.* See § 1940.552(f) of this subpart. Jurisdictions receiving formula allocations do not receive administrative allocations.

(7) *Reserve.* See § 1940.552(g) of this subpart.

(8) *Pooling of funds.* See § 1940.552(h) of this subpart.

(9) *Availability of allocation.* See § 1940.552(i) of this subpart.

(10) *Suballocation by the State Director.* Suballocation by the State Director is authorized for each program covered by this section.

(b) *Conditions for not allocating program funds to the States.* The Agency may elect to not allocate program funds to the States whenever one of the conditions identified in paragraphs (b)(1) or (b)(2) of this section occurs.

(1) Funds allocated in a fiscal year to a program identified in this section are insufficient, as provided for in § 1940.552(a) of this subpart.

(2) The Agency determines that it is in the best financial interest of the Federal Government not to make a State allocation for any program identified in this section and that the exercise of this determination is not in conflict with applicable law.

■ 3. Section 1940.589 is revised to read as follows:

§ 1940.589 Rural Energy for America Program.

The Agency will allocate funds to the States each Federal fiscal year for renewable energy system and energy efficiency improvement projects under the Rural Energy for America Program (REAP) using the procedures specified in paragraph (a) of this section. If the Agency determines that it will not allocate funds to the States for REAP in a particular Federal fiscal year, the Agency will announce this decision in a notice published in the **Federal Register**. The conditions under which the Agency will not allocate the program's funds to the States are identified in paragraph (b) of this section.

(a) *Procedures for allocating funds to the States.* Each Federal fiscal year, the Agency will use the amount available to the program and the procedures identified in paragraphs (a)(2) through (10) of this section to determine the amount of program funds to allocate to each of the States. The Agency will make this calculation each Federal fiscal year.

(1) *Amount available for allocations.* See § 1940.552(a) of this subpart.

(2) *Basic formula criteria, data source, and weight.* See § 1940.552(b) of this subpart.

(i) The criteria used in the basic formula are:

(A) State's percentage of national rural population.

(B) State's percentage of national rural population with incomes below the poverty level.

(C) State's percentage of energy cost.

(ii) The data sources for each of the criteria identified in paragraph (a)(2)(i) of this section are:

(A) For the criterion specified in paragraph (a)(2)(i)(A), the most recent decennial Census data.

(B) For the criterion specified in paragraph (a)(2)(i)(B), 5-year income data from the American Community Survey (ACS) or, if needed, other Census Bureau data.

(C) For the criterion specified in paragraph (a)(2)(i)(C), the most recent U.S. Energy Information Administration data.

(iii) Each criterion is assigned a specific weight factor according to its relevance in determining need. The percentage representing each criterion is multiplied by the weight factor and summed to arrive at State Factor (SF). The SF cannot exceed 0.05. The Agency may elect to use different weight factors than those identified in this paragraph by publishing a timely notice in the **Federal Register**.

SF = (criterion (a)(2)(i)(A) × 25 percent)
+ (criterion (a)(2)(i)(B) × 50 percent)
+ (criterion (a)(2)(i)(C) × 25 percent)

(iv) The Agency will recalculate, as necessary, each criterion specified in paragraph (a)(2)(i) of this section each year. In making these recalculations, the Agency will use the most recent data available to the Agency as of October 1 of the fiscal year for which the Agency is making State allocations. Each criterion's value determined at the beginning of a fiscal year for a program will be used for that entire fiscal year, regardless of when that fiscal year's funding becomes available for the program.

(3) *Basic formula allocation.* See § 1940.552(c) of this subpart.

(4) *Transition formula.* The transition provisions specified in § 1940.552(d) of this subpart apply to the program(s) identified in this section except as follows:

(i) The transition formula will be used only when the weight factors identified in paragraph (a)(2)(iii) of this section are modified; and

(ii) When the transition formula is used, there will be no upper limitation on the amount that a State's allocation can increase over its previous year's allocation and the maximum percentage that funding will be allowed to decrease for a State will be 10 percent from its previous year's allocation.

(5) *Base allocations.* See § 1940.552(e) of this subpart.

(6) *Administrative allocations.* See § 1940.552(f) of this subpart. Jurisdictions receiving formula allocations do not receive initial administrative allocations.

(7) *Reserve.* See § 1940.552(g) of this subpart.

(8) *Pooling of funds.* See § 1940.552(h) of this subpart.

(9) *Availability of the allocation.* See § 1940.552(i) of this subpart.

(10) *Suballocation by the State Director.* Suballocation by the State Director is authorized for this program.

(b) *Conditions for not allocating program funds to the States.* The Agency may elect to not allocate REAP

program funds to the States whenever one of the conditions identified in paragraphs (b)(1) or (b)(2) of this section occurs.

(1) Funds allocated in a fiscal year to REAP are insufficient, as provided for in § 1940.552(a) of this subpart.

(2) The Agency determines that it is in the best financial interest of the Federal Government not to make a State allocation for REAP and that the exercise of this determination is not in conflict with applicable law.

■ 4. Section 1940.593 is revised to read as follows:

§ 1940.593 Other Rural Business-Cooperative Service Programs.

If the Agency determines that it is in the best interest of the Federal government to allocate funds to States for existing RBS programs other than those identified in §§ 1940.588 and 1940.589 of this subpart and for programs new to RBS (e.g., through new legislation), the Agency will use the process identified in paragraph (a) or (b) of this section.

(a) If the Agency determines that one of the State allocation procedures in § 1940.588 and § 1940.589 is appropriate for the program, the Agency will publish a **Federal Register** notice identifying the program and which State allocation procedure will be used for the program.

(b) If the Agency determines that none of the procedures specified in § 1940.588 and § 1940.589 is appropriate for the program, the Agency will implement the following steps:

(1) The Agency will either develop a preliminary state allocation formula and administrative procedures specific to the requirements of the new program or use whichever of the procedures in § 1940.588 and § 1940.589 the Agency determines most closely matches the purpose of the program. The Agency will publish in the **Federal Register** the State allocation formula and adminstrative procedures that it will use initially for the new program.

(2) The Agency will develop a State allocation formula and administrative provisions specific to the new program and publish them as a proposed rule change to this part in the **Federal Register** for public comment.

(3) Until the program's State allocation formula and administrative requirements are finalized, the Agency will use the preliminary State allocation formula established under paragraph (b)(1) of this section to make State allocations and administer the new program.

Dated: August 1, 2014.

Doug O'Brien,

Acting Under Secretary, Rural Development.

Dated: September 3, 2014.

Michael Scuse,

Under Secretary, Farm and Foreign Agricultural Services.

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 304, 327, 381, and 590

[Docket No. FSIS–2009–0022]

RIN 0583–AD39

Electronic Import Inspection Application and Certification of Imported Products and Foreign Establishments; Amendments To Facilitate the Public Health Information System (PHIS) and Other Changes to Import Inspection Regulations

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the meat, poultry, and egg products import regulations to provide for the Agency's Public Health Information System (PHIS) Import Component. The PHIS Import Component, launched on May 29, 2012, provides an electronic alternative to the paper-based import inspection application and the foreign inspection and foreign establishment certificate processes. The Agency is also removing from the regulations the discontinued ''streamlined'' import inspection procedures for Canadian product and is requiring Sanitation Standard Operating Procedures (SOPs) at official import inspection establishments.

In addition to the regulatory amendments outlined above, FSIS is discontinuing its practice of conducting imported product reinspection based on a foreign government's guarantee to replace a lost or incorrect foreign inspection certificate and is clarifying its policy of addressing imported product that is not presented for reinspection.

DATES: *Effective Date:* November 18, 2014.

Compliance Date: Revised Import Inspection Application (FSIS Form 9540–1): March 18, 2015.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Stanley, Director, International Relations and Strategic Planning Staff, Office of Policy and Program Development, FSIS, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 2925, Washington, DC 20250–3700, Phone: (202) 720–0287.

SUPPLEMENTARY INFORMATION:

Executive Summary

On November 27, 2012, FSIS issued a proposed rule to amend the meat, poultry, and egg products import regulations to provide for the import component of the Agency's Public Health Information System (PHIS). The PHIS is an electronic data analytic system, launched to collect, consolidate, and analyze data in order to improve public health.

In addition to providing for the PHIS Import Component, FSIS proposed to amend the regulations to delete overly prescriptive formatting and narrative requirements for foreign establishments and inspection certificates and to make the certificate requirements the same for imported meat, poultry, and egg products. The Agency also proposed to require additional information on these certificates so it would have complete foreign establishment and product information to determine eligibility and reinspection.

The proposed rule also amended the regulations to require that official import inspection establishments comply with Sanitation Standard Operating Procedures (SOPs) to prevent the direct contamination or adulteration of products. The proposal also deleted certain streamlined inspection procedures for products imported from Canada. The streamlined procedures were implemented in January 1989 to further the goal of the 1988 U.S.—Canada Free Trade Agreement to reduce trade restrictions between the United States and Canada. However, FSIS suspended the use of these procedures in 1992.

In addition to the proposed regulatory amendments, FSIS announced its intention to discontinue its practice of conducting imported product reinspection based on a foreign government's guarantee to replace a lost or incorrect foreign inspection certificate within 30 days and clarified its policy of addressing imported product that is not presented for reinspection.

This rule finalizes all of the proposed amendments, with the following modifications and clarifications:

• The final rule changes the proposed foreign establishment certification regulations (9 CFR 327.2(a)(3) and 381.196(a)(3)) to provide that when a foreign government certifies a foreign

establishment for which the preceding year's certificate information has not changed, the certificate or certification only needs to list the date, the foreign country, the foreign establishment's name, and the foreign official's title and signature (for paper certificates only). Also, the final rule will not require the foreign official's title for electronic foreign establishment certifications because this information is required in an electronic certification agreement and Memorandum of Understanding (MOU) between FSIS and the foreign country.

• The final rule revises the foreign inspection certificate regulations (9 CFR 327.4, 381.197, and 590.5915) to require that foreign governments provide the names and addresses of the ''importer *or* consignee'' and the ''exporter *or* consignor.'' The Agency is also clarifying that ''the process category'' is an example of the type of product produced, not additional required information. This final rule also amends the proposal to require the seal of the foreign government on paper foreign inspection certificates. In addition, the final rule will not require the foreign official's name and title for electronic foreign inspection certifications because, as discussed above for foreign establishment certifications, this information is required in an electronic certification agreement and MOU between FSIS and the foreign country.

The benefits of the final rule include reduced data-entry time for import inspectors, streamlined existing import documentation requirements, and increased effectiveness of import inspection regulations. An additional potential benefit is that the rule provides the option to file mandatory import application data electronically. Compared to the old paper-based application, FSIS estimates that it will take 6 additional minutes to complete the new paper-based application and an additional minute to submit an electronic application. Monetizing this time, FSIS estimates the industry wide cost to complete the new application is about $77,000 per year. The Agency expects few or no costs to arise from the Sanitation SOPs or the removal of regulatory provisions for the streamlined import inspection system for Canadian products.

Background

On November 27, 2012, FSIS published the proposed rule, ''*Electronic Import Inspection Application and Certification of Imported Products and Foreign Establishments; Amendments to Facilitate the Public Health Information System (PHIS) and Other Changes to Import Inspection Regulations*'' (77 FR 70714). In it, the Agency proposed to amend the meat, poultry, and egg products import regulations to provide for the PHIS Import Component, an electronic alternative to the paper-based import inspection application and imported product foreign inspection and foreign establishment certificate processes.

The Federal Meat Inspection Act (FMIA) (21 U.S.C. 620) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 466) prohibit the importation of meat and poultry products into the United States if the products are adulterated or misbranded, and unless they comply with all the inspection and other requirements of the Acts and regulations as are applied to domestic products. The Egg Products Inspection Act (EPIA) (21 U.S.C. 1046) prohibits the importation of egg products unless they were processed under an approved continuous inspection system of the government of the foreign country of origin and comply with the other pertinent requirements of the Act and regulations as are applied to domestic products.

PHIS Import Component

On May 29, 2012, FSIS launched the PHIS Import Component, which replaced the Agency's Automated Import Inspection System (AIIS) and integrated and automated its paper-based business processes into one comprehensive and automated data-driven import inspection system. The PHIS Import Component enables United States importers to file for FSIS inspection in advance of arrival of shipments destined to the United States.

PHIS and the Automated Commercial Environment (ACE) Interface

FSIS has actively participated in the development of the International Trade Data System (ITDS), an electronic information exchange capability, or ''single-window,'' through which businesses will transmit data required by participating agencies for the importation or exportation of cargo. The goal of the ITDS is to eliminate redundant data reporting and replace multiple filings, many of which are on paper. As part of the ITDS initiative, the U.S. Customs and Border Protection (CBP) developed the Automated Commercial Environment (ACE), a United States commercial trade processing system that automates border processing of shipments of amenable products. The ACE system provides a single, centralized, online access point that connects the trade community and partner government agencies. The ACE system interfaces with the PHIS Import Component and electronically transfers CBP entry data on meat, poultry, and egg products to FSIS but does not yet provide all of the required FSIS information.

Since the implementation of the PHIS Import Component, the Agency has collaborated with CBP to develop the capability to collect and transfer, through the ACE/PHIS Import Component interface, all of the FSIS required information through a Partner Government Agency (PGA) Message Set, which will eliminate the need to submit a paper application for import inspection. In March 2013, the Agency published a **Federal Register** Notice, ''Electronic Filing of Import Inspection Applications for Meat, Poultry, and Egg Products: Availability of Draft Compliance Guide and PGA Message Set Pilot Program,'' announcing the availability of a compliance guide on the PGA Message Set and a pilot program intended to test the transfer of FSIS data from the ACE/PGA Message Set to the PHIS Import Component (*http://www.fsis.usda.gov/OPPDE/rdad/FRPubs/2012-0037.pdf*). The compliance guide, which FSIS developed in conjunction with CBP, provides specific guidance to industry to take advantage of the ''single window'' initiative. FSIS began piloting the PGA Message Set with two brokers in April 2014.

On December 13, 2013, CBP published a **Federal Register** Notice, ''National Customs Automation Program (NCAP) Test Concerning the Submission of Certain Data Required by the Environmental Protection Agency and the Food Safety and Inspection Service Using the Partner Government Agency Message Set Through the Automated Commercial Environment (ACE),'' which announced the testing of electronic filings of import data using the Automated Commercial Environment (ACE) Partner Government Agency (PGA) Message Set and the Automated Broker Interface (ABI) to transmit the data (78 FR 75931). On February 19, 2014, President Obama signed an Executive Order that mandates the completion of the ITDS by December 2016 (*http://www.whitehouse.gov/the-press-office/2014/02/19/executive-order-streamlining-exportimport-process-america-s-businesses*).

FSIS considers any electronic data transferred from ACE into the PHIS Import Component as certified by the applicant. FSIS also considers any electronic records, digital images, data, or information from a foreign

government for foreign inspection and foreign establishment certification to be equivalent to paper records and certified by the foreign government.

Proposed and Final Regulatory Amendments

Foreign Establishment Certificate

As discussed in the proposed rule (77 FR 70714), the meat and poultry products import regulations require that an official of the foreign inspection system determine and certify, on an annual basis, those foreign establishments that are eligible to have their products imported into the United States (9 CFR 327.2(a)(3) and 381.196(a)(3)). The proposed rule also explained that the annual foreign establishment certificate regulations prescribe a narrative format that requires the foreign establishment's name, address, and control number (the establishment number assigned by the foreign inspection agency) of each establishment and include the foreign official's title, signature, and date.

The egg products import regulations require that egg products imported into the United States must be from foreign countries that comply with the EPIA and the applicable regulations (9 CFR 590.910). When FSIS determines that a foreign country is eligible for its egg products to be imported into the United States, the country is listed in 9 CFR 590.910(b). As discussed in the proposed rule (77 FR 70716), because the egg products import regulations do not require foreign establishment certification, FSIS did not propose eligibility requirements for foreign egg product plants. The Agency intends to propose foreign egg product plant certification requirements in a separate rulemaking.

FSIS proposed (77 FR 70716) to amend the meat and poultry foreign establishment certificate regulations to provide concise regulatory language, delete the prescriptive narrative certificate statement, and require (in addition to information listed above): The type of operations conducted at the foreign establishment (e.g., slaughter, processing, storage, exporting warehouse) and the establishment's eligibility status (i.e., identify establishments that have been added or delisted and subsequently relisted since the last annual certification). In addition, for slaughter and processing establishments, the Agency proposed to require the species and type of products produced and the process category. FSIS also proposed to provide for the electronic transmittal of foreign establishment certifications to FSIS from foreign governments, in lieu of paper-based foreign establishment certifications.

This rule finalizes the proposed amendments to the foreign establishment certification regulations (9 CFR 327.2(a)(3) and 381.196(a)(3)), with minor modifications. FSIS proposed that slaughter and processing establishments must address the species and type of products produced at the establishment and the process category. In this final rule, in response to comments, the Agency is clarifying that ''the process category'' is an example of the type of product produced, not additional information. Therefore, the last sentence of the regulatory text in proposed 9 CFR 327.2(a)(3) and 381.196(a)(3) is changed in this final rule to provide that slaughter and processing establishment certifications must address the species and type of products produced at the establishment (e.g., the process category).

FSIS also proposed to require the foreign official's title on foreign establishment certificates and electronic certifications. However, because foreign countries that utilize electronic certification (eCert) identify the foreign official's title in an Interconnection Security Agreement (ISA) and a Memorandum of Understanding (MOU) with FSIS, the Agency reconsidered requiring this information for electronic certifications. In this final rule, for foreign governments that utilize eCert to transmit foreign establishment certifications, the foreign official's title will not be required information.

In addition, since actively exporting foreign establishment information is stored in the PHIS Import Component's foreign establishment profile, the Agency reconsidered requiring all of the information on a yearly basis. To minimize the burden to foreign countries, FSIS determined that, for foreign establishments that have no changes to the previous year's certification information, foreign governments only have to provide the date, the foreign country, the foreign establishment name, and, for paper certificates, the foreign official's title and signature. The Agency is amending 9 CFR 327.2(a)(3) and 381.196(a)(3) to add subparagraph (i) to list the requirements for a new establishment, or any establishment for which information from last year's information has changed, and subparagraph (ii) to list the establishment certification requirements for establishments listed the preceding year that have no changes to the required information.

Imported Product Foreign Inspection Certificates

As discussed in the proposed rule (77 FR 70714), the meat, poultry, and egg products import regulations require a foreign inspection certificate for every shipment of product that is offered for import into the United States (9 CFR 327.4, 381.197, and 590.915). Depending on the type of product to be imported, the regulations provide four different foreign product inspection certificates—a fresh meat and meat byproducts certificate, a meat food product certificate, a poultry product certificate, and an egg products certificate.

The meat and poultry foreign inspection certificate regulations prescribe a narrative statement and format, certifying that the product was derived from livestock or poultry that received ante-mortem and post-mortem veterinary inspection at the time of slaughter in establishments certified to export their products to the United States, is not adulterated, and is in compliance with requirements equivalent to the U.S. domestic requirements. The regulations also require specific information about the product. Meat and poultry products foreign inspection certificates are required to be in the form illustrated in 9 CFR 327.4(a) and (b) and 381.197(b), the foreign meat inspection certificate must be both in English and the language of the foreign country and bear the official seal of the national government agency responsible for the inspection of the product (9 CFR 327.4(c) and (d)).

The egg products foreign inspection certification regulations (9 CFR 590.915) contain a list of required information and require certification that the product was produced under the approved regulations, requirements, and continuous inspection of the government of the exporting country.

FSIS proposed to amend the meat, poultry, and egg product foreign inspection certification regulations to clarify and simplify the foreign inspection certificate requirements; to require the same information for meat, poultry, and egg product certificates; and to delete the prescriptive narrative and format requirements for the meat and poultry foreign inspection certificates (77 FR 70716). The Agency proposed to delete the requirement that the meat certificate bear the official seal of the government agency responsible for the inspection of the product and be in the language of the foreign country of origin. In addition, the Agency proposed to delete the requirement that the

certificate identify the city where the establishment is located, because the foreign establishment number provides sufficient information to identify that city. The Agency also proposed to require the identity and address of the consignee, consignor, exporter, and importer and to delete the product ''destination'' requirement because it would be replaced with the ''consignee address.'' In addition, the Agency proposed to amend the foreign inspection certification regulations to provide for the electronic transmittal of foreign inspection certifications.

The proposed meat, poultry, and egg products foreign inspection certification regulations (9 CFR 327.4, 381.197, and 590.915) require: The date, name, and title of the official authorized to issue inspection certificates for products that are offered for import into the United States; the foreign country of export and the producing foreign establishment number; the species used to produce the product and the source country and foreign establishment number if the source materials originate from a country other than the exporting country; the product's description, including the process category, the product category, and the product group; the name and address of the consignor; the name and address of the exporter; the name and address of the consignee; the name and address of the importer; the number of units (pieces or containers) and the shipping or identification mark on the units; the net weight of each lot; and any additional information the Administrator requests to determine whether the product is eligible to be imported into the United States.

This rule finalizes the proposed amendments to the foreign inspection certificate regulations with minor modifications. In response to comment, FSIS reconsidered requiring the names and addresses of the consignor, exporter, consignee, and importer, as this information is redundant and may not be consistent with international data standards. Therefore, the Agency is modifying 9 CFR 327.4(e), 381.197(e), and 590.915(e) to require the names and addresses of the ''importer *or* consignee'' and the ''exporter *or* consignor.'' In addition, in proposing to delete the seal requirements for paper foreign inspection certificates, FSIS anticipated that paper certificates would be replaced by secure electronic government-to-government transmission of foreign inspection certification data. However, until a foreign government has the capability to electronically transmit foreign inspection certification data, the Agency will continue to require that paper foreign inspection certificates bear the official seal of the foreign government agency responsible for the inspection of the product, to ensure the authenticity of the certificate. Therefore, the regulations will continue to require that paper foreign inspection certificates bear the official seal of the foreign government (9 CFR 327.4(d), 381.197(d), and 590.915(d)).

In addition, FSIS proposed to require the foreign official's name and title on the electronic foreign inspection certification. However, as discussed above for foreign establishment certification, foreign countries that utilize eCert identify the foreign official's name and title in an ISA and MOU. Therefore, in this final rule, for foreign governments utilizing eCert to transmit foreign inspection certification, the foreign official's name and title will not be required information.

Import Inspection Application

As discussed in the proposed rule (77 FR 70715), the FSIS meat, poultry, and egg products import regulations require importers to apply for the inspection of imported product (9 CFR 327.5, 381.198, and 590.920). Before the PHIS Import Component implementation, applicants submitted FSIS Form 9540–1, ''Import Inspection Application and Report,'' for meat and poultry products and FSIS Form 5200–8, ''Import Request Egg Products'' for egg products, to FSIS import inspection program personnel.

FSIS proposed to amend the imported product inspection application regulations (9 CFR 327.5, 381.198, and 590.920) to require applicants to submit FSIS Form 9540–1, ''Import Inspection Application,'' to import inspection personnel for the inspection of any product offered for entry into the United States (77 FR 70717). The Agency revised the application to include egg products and additional information the Agency needs to accurately assign reinspection tasks and sampling of the product. In addition, the Agency proposed to provide the option of submitting the application electronically or in paper.

As discussed above, the PHIS Import Component interfaces with CBP's ACE system and receives a limited amount of data needed to complete the inspection application. FSIS inspection program personnel enter the additional required data into the PHIS Import Component by using information from the paper Import Inspection Application. The PGA Message Set will electronically collect and transfer all FSIS-specific data fields from ACE to PHIS. For applicants that electronically file entries with CBP, including the PGA Message Set, this entry will replace the paper inspection application. Applicants that do not file the PGA Message Set data or that do not electronically file entries with CBP can continue to submit paper applications to FSIS inspection personnel at an official import inspection establishment. Paper applications must be provided to FSIS at the time the entry is filed, in advance of the presentation of the shipment at the official import inspection establishment.

When the revised Import Inspection Application (FSIS Form 9540–1) receives final approval from OMB, FSIS will post the form on its Web site. FSIS will provide applicants with six months from the date of this final rule to transition from the current to the revised form.

Prior Notification of Imported Product

As discussed in the proposed rule (77 FR 70717), the meat, poultry, and egg products import regulations require that the importer apply for the inspection of imported product as far as possible in advance of the anticipated arrival of each consignment (9 CFR 327.5(b), 381.198(a), and 590.920).

FSIS proposed to revise the regulations to make clear that applicants must submit electronic or paper import inspection applications to FSIS in advance of the shipment's arrival but no later than when the entry is filed with CBP (proposed 9 CFR 327.5(b), 381.198(b), and 590.920(b)).

This rule finalizes the proposed amendments.

Streamlined Inspection Procedures for Canadian Products

As discussed in the proposed rule (77 FR 70715), for participating Canadian establishments, the meat and poultry import regulations provide ''streamlined'' inspection procedures on a voluntary basis (9 CFR 327.5(d) and 381.198(b)). Under these streamlined procedures, Canadian officials contact FSIS import offices directly for reinspection assignments. If the shipment is not designated for reinspection, it can proceed to the consignee for further distribution. If the shipment is designated for reinspection, Canadian officials select the samples according to USDA sampling tables and identify and place the samples in the vehicle for easy removal and reinspection by an FSIS import inspector. The streamlined procedures were provided in January 1989 to further the goal of the 1988 U.S.-Canada Free Trade Agreement to reduce trade restrictions between the United States and Canada. However, because of issues

raised in a 1990 General Accounting Office (now known as the Government Accountability Office, or GAO) report about the streamlined procedures, in 1992, the Agency suspended using the streamlined inspection procedures for Canadian product (77 FR 70717).

FSIS proposed (77 FR 70717) to delete the discontinued streamlined procedures provided in 9 CFR 327.5(d) and 381.198(b). The Agency also proposed to amend 9 CFR 327.1 and 381.195, to revise paragraph designations and remove specific references to ''for product from eligible countries other than Canada'' (9 CFR 327.1(a)(2) and 381.195(a)(2)) and delete paragraphs 9 CFR 327.1(a)(3) and 381.195(a)(3), that provide specific definitions for ''product from Canada.''

This rule finalizes the proposed amendments.

Sanitation Standard Operating Procedures (SOPs) Requirements for Official Import Inspection Establishments

As discussed in the proposed rule (77 FR 70715), FSIS meat import regulations require that all imported products be inspected only at an official establishment or at an official import inspection establishment (9 CFR 327.6(b)). Owners or operators of establishments where imported product is inspected must furnish adequate sanitary facilities and equipment for examining the product and, as a condition for approval, must comply with the provisions of the sanitation regulations, 9 CFR 416.1 through 416.6 (9 CFR 327.6(e)). However, 9 CFR 327.6(e) does not require that official import inspection establishments comply with the Sanitation SOP requirements provided in 9 CFR 416.11 through 416.17.

FSIS proposed (77 FR 70718) to amend 9 CFR 327.6(e) to require that an official import inspection establishment must, in order to receive a grant of inspection, meet the Sanitation SOP requirements in 9 CFR 416.11 through 416.17.

In addition, the Agency proposed to amend the poultry products regulations (9 CFR 381.199) to parallel the meat import regulations to require that all poultry products offered for import be inspected only at an official establishment or at an official import inspection establishment approved by the Administrator. The Agency also proposed to amend the requirements for the conditions of approval (9 CFR 327.6(b), (c), (d), (f), (g), and (h)).

The Agency also proposed to amend 9 CFR 381.1, ''Definitions'' to include the definition of ''Official Import Inspection Establishment,'' to parallel the definition in 9 CFR 301.2. and to amend the ''Conditions for receiving inspection'' regulations (9 CFR 304.3(a) and 381.22(a)) to clarify that before being granted Federal inspection, establishments and official import inspection establishments must develop written Sanitation Standard Operating Procedures (9 CFR 416.12 through 416.7).

For imported egg products, importers are advised of the point where inspection will be made (9 CFR 590.925(a)). The Agency did not propose amendments to the egg products regulations but will be proposing amendments to the imported egg products regulations in a separate rulemaking.

This rule finalizes the proposed amendments. As discussed in the proposal (77 FR 70718), official import inspection establishments operating under a grant of inspection must develop and implement written Sanitation SOP within 60 days of the publication of this final rule.

Other Proposed Amendment

As discussed in the proposed rule (77 FR 70718), FSIS proposed to amend the poultry products import regulations (9 CFR 381.195(a)(2)(ii)) to replace the meat import regulation citation (9 CFR 327.6) with the correct poultry products regulation citation (9 CFR 381.204), ''Marking of poultry products offered for entry; official import inspection marks and devices.''

This rule finalizes the proposed amendment.

Discontinued Import Practice and Enforcement Notification

In the proposed rule, in addition to the proposed regulatory amendments outlined above, FSIS announced that it would end two of its imported meat, poultry, and egg products reinspection practices (77 FR 70718). These practices will end on the effective date of this rule.

30-Day Guarantee Foreign Inspection Certificate Replacement

As discussed in the proposed rule, when official foreign inspection certificates are lost in transit or contain errors, FSIS will discontinue its practice of reinspecting imported product based on the foreign government's guarantee to replace lost or incorrect foreign inspection certificates (77 FR 70718). If certificates are lost or contain mistakes, they can easily be replaced within a short timeframe. A replacement certificate can be sent to FSIS in a Portable Document File (PDF) by email (*importinspection@fsis.usda.gov*) or by an expedited mail service. FSIS will only reinspect imported product upon receipt of the replacement foreign inspection certificate.

Failure To Present (FTP) Imported Product for Reinspection

Imported meat, poultry and egg products are considered ''in-commerce'' when they are off-loaded at a location other than the official import inspection establishment or the official establishment designated on the import inspection application.

As discussed in the proposed rule, imported product that has bypassed FSIS import reinspection and entered commerce constitutes a ''failure to present'' (FTP) and violates the Acts (77 FR 70718). In response to comments requesting that the Agency provide clarification concerning activities that trigger FTP determinations and the disposition of FTP products in general, the Agency is providing further clarification on its FTP product enforcement policies. As discussed in the proposed rule, when a product has been identified as a FTP, FSIS will request, through CBP, a redelivery of the shipment and appropriate penalties. Any imported product that has not been presented for reinspection at the official FSIS establishment identified on the Import Inspection Application is considered a FTP.

If FTP product has been removed from the original cartons or further processed, FSIS will initiate a regulatory control action on all applicable FTP product, including any further processed product that contains the FTP product for appropriate disposition (i.e., destruction).

Comments and Responses

FSIS received 14 comments in response to the proposed rule. The comments were from domestic and foreign trade associations, private citizens, foreign government agencies, and a consumer advocacy organization.

General Support

Most comments supported the proposal to provide an electronic method of processing import inspection applications and foreign inspection certificates. The comments stated that the PHIS Import Component offered the promise of increased efficiency and better use of resources, and that it expedited the processing of imported products. A commenter stated that the proposed amendments would harmonize requirements across meat, poultry and egg products and removed unnecessary prescriptive narratives and

formatting for foreign inspection and establishment certificates. A commenter also supported the Sanitation Standard Operating Procedures (Sanitation SOPs) requirements at official import inspection establishments because it would harmonize food safety requirements between official establishments and official import inspection establishments.

PHIS Import Component System Operation and Required Information

Comment: Because the PHIS Import Component launched in May 2012, before the publication of the proposed rule, some commenters familiar with the system expressed concern about its efficiency. In the event of system breakdowns, importers requested the Agency's commitment to work with the industry to ensure that shipments are cleared. Several domestic trade associations stated that delays involving the PHIS Import Component will lead to added overtime inspection charges for refused entries, data entry, and system downtime that will negatively affect the industry. One trade association asked if FSIS would redefine overtime based on PHIS.

Response: The PHIS Import Component is a significant new information technology (IT) application and its implementation was a major initiative. As with any new system, there was an initial period of transition and adjustment for inspection personnel and industry. When the Agency launched the PHIS Import Component, it cancelled the long-standing Import Manual of Procedures and issued FSIS Import PHIS Directives to provide inspection personnel with instructions on their duties (*http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/directives/phis_directives*). In January 2013, PHIS Directive 9500.1, ''Contingency Plan for Import Reinspection When the Public Health Information System (PHIS) is Unavailable,'' was updated to provide guidance on obtaining reinspection assignments when the system is not accessible (*http://www.fsis.usda.gov/wps/wcm/connect/dbdd4bb4-2601-44b3-a855-282253304988/PHIS_9500.1.pdf?MOD=AJPERES*). The Agency is committed to resolving PHIS Import Component operational issues and ACE/PHIS Import Component data transfer problems. Because brokers can submit entries well in advance the shipment's presentation for import reinspection, there should be no problem in completing the FSIS reinspection in a timely fashion. The Agency has no plans to redefine overtime as it relates to the PHIS Import Component.

Comment: Foreign governments and a trade association asked that FSIS consult with foreign authorities to determine how long they will need to make the changes to comply with the foreign establishment certification and foreign inspection certification requirements in the final rule. Foreign governments stated that they needed sufficient time to change their IT operating systems to collect the newly required data and to be able to submit data electronically to FSIS.

Several commenters asked if FSIS would work with industry, foreign countries, and brokers in submitting the new data requirements on the foreign establishment and foreign inspection certifications, and the Import Inspection Application before enforcement actions would be taken based on incomplete information.

Response: Many of the amendments in this final rule have been implemented voluntarily. In March 2012, before implementing the Import PHIS Component, FSIS sent letters to the competent authorities of all eligible foreign countries, notifying them of the changes in foreign establishment and the foreign inspection certification requirements (*http://www.fsis.usda.gov/wps/wcm/connect/d5f3ad49-133c-4a21-b0d9-5975c9e3e838/PHIS_Letter_to_Foreign_Countries_03202012.pdf?MOD=AJPERES&CACHEID=d2e89cb3-0581-45b5-8190-489bd4d7d36e*). In April 2012, FSIS sent letters to importers providing them with information on changes in certification requirements, product categorization, and import reinspection presentation and sampling at official import inspection establishments (*http://www.fsis.usda.gov/wps/wcm/connect/165e4c94-5fcf-4aab-abc7-1bec486b8f33/PHIS_Letter_to_Importers_04182012.pdf?MOD=AJPERES&CACHEID=e2ca0872-608b-43c0-be2e-79002cbb65e9*).

In addition, FSIS conducted several outreach sessions with industry and foreign governments to provide information on the PHIS Import Component, including the information requirements.

Because of the letters, the outreach sessions, the implementation of the PHIS Import Component in May 2012, and the publication of the November 2012 proposed rule, some foreign governments have already made the changes needed to provide the foreign establishment and foreign inspection certifications. This final rule will be effective 60 days from the date of publication, and FSIS does not foresee any additional impact on foreign governments. However, FSIS will conduct teleconference calls or hold meetings to address requests for clarification or further information specific to individual foreign country's needs.

As discussed above, the Agency is providing applicants with six months, from the date of this final rule, to transition from the current to the revised Import Inspection Application. In addition, the Agency is conducting a pilot program, which started in April 2014, that tests the electronic transfer of all FSIS-specific data elements included in the PGA Message Set to the PHIS Import Component.

Foreign Establishment Certification

Comment: Several commenters asked for general guidelines to assist foreign governments with completing foreign establishment certification requirements. Commenters specifically requested that the Agency explain the new ''type of products produced'' and ''process category'' information. A foreign government asked that FSIS confirm that the ''process category'' will be the same as that used for the Electronic Certification (eCert) exchange.

Response: Some of the foreign establishment certification information is not new, e.g., the date; the foreign establishment name, address, and number; and the foreign official's title and signature. Some of the information that is new, such as the foreign country, the type of operations conducted at the establishment (*e.g.,* slaughter, processing, storage, or export certification), and the establishment's eligibility status (*e.g.,* new, listed as eligible the previous year, delisted, relisted (if previously delisted)), does not need explanation. For slaughter and processing establishments, FSIS proposed requiring the species, the type of product produced, and the process category. The March 2012 letters to foreign countries discussed above included an ''FSIS Product Categorization'' appendix document that identified the nine (9) process categories in 9 CFR 417.2(b).

In this final rule, the Agency is amending the regulatory text to clarify that the ''process category'' is an example of the type of product produced. The ''process category'' is the same information that would be provided through eCert, the electronic government-to-government exchange that is currently utilized by two foreign countries.

Comment: Two foreign countries asked if the ''eligibility status'' was

necessary because they provide FSIS with establishment notifications throughout the year. One foreign country stated that the new establishment information is already supplied in various forms to FSIS; specifically, the FSIS Self Reporting Tool (SRT) captures the types of products produced and the process category at each foreign establishment. One trade organization asked whether FSIS will require a foreign government that exports or wishes to begin exporting product to the U.S. to complete the SRT, and whether FSIS will add that requirement to the regulations. The commenter also asked how FSIS will verify the data from the annual certification and other systems, such as the SRT.

Response: The ''eligibility status'' information is necessary to ensure the appropriate and efficient reinspection, enforcement, and audit planning activities, and any changes in eligibility status need to be updated as necessary and reported annually. The FSIS SRT collects and catalogs information submitted by foreign countries during the initial and on-going equivalence process. FSIS will not include the SRT in the regulations. FSIS requests that countries complete the SRT to collect and evaluate the information countries are required to submit to FSIS to be eligible to import product to the U.S. (9 CFR 327.2, 381.196, and 590.910). On January 25, 2013, FSIS published a **Federal Register** Notice, ''Ongoing Equivalence Verifications of Foreign Food Regulatory Systems,'' that describes the methodology the Agency is using to conduct ongoing verification of foreign country's regulatory food safety systems and includes a discussion of the SRT (*http://www.fsis.usda.gov/OPPDE/rdad/FRPubs/2012-0049.pdf*). FSIS is evaluating comments on that notice and is considering necessary changes to its equivalence verification procedures. FSIS will respond to comments and clarify issues commenters raised on the January 25, 2013, notice in an upcoming **Federal Register** notice. The Agency will verify annual establishment certification data during foreign audit activities.

Comment: One trade association asked how FSIS will handle establishment certification data errors, given that errors may cause trade delays.

Response: If there are foreign establishment certification data errors, e.g., the product is from a foreign establishment that is not listed in the PHIS Import Component, FSIS will contact the competent authority in the foreign country to resolve the issue.

Comment: One foreign country asked whether FSIS intended to request separate lists of eligible foreign establishments based on species and products.

Response: FSIS has no intention to request separate lists of eligible foreign establishments based on species and products. It intends to maintain an accurate list of eligible foreign establishments, which will include the name and establishment number, the eligible species, the type of operations (e.g., slaughter, processing, or storage), and the types of products produced, based on the process categories. This information will be maintained in the PHIS foreign country profile and published on the FSIS Web site.

Foreign Inspection Certificate

Comment: Domestic trade associations stated that many countries will use different foreign inspection certificate formats, causing import inspectors to question shipment certification and delaying reinspection. The commenters asked whether FSIS will issue a compliance guide for foreign governments to follow so that reinspections are not delayed because import inspectors question certificates. One trade organization recommended that FSIS establish a standard for acceptable foreign inspection certificates.

Response: FSIS requires specific foreign inspection certificate information (9 CFR 327.4, 381.197, and 590.915); however, there are no formatting requirements. As instructed in FSIS Directive 9900.1, ''Imported Product Shipment Presentation,'' inspection program personnel with questions about information in a foreign inspection certificate, or about the certificate's validity are to contact their supervisor. If a significant number of foreign inspection certificates are noncompliant with these regulations, FSIS may issue compliance guidelines to assist foreign countries.

Foreign countries can use the Codex Alimentarius generic model official certificate as a guideline for organizing the required data elements on an official certificate. The certificate guideline can be found on the Codex Alimentarius Web site at: *http://www.codexalimentarius.org/standards/list-of-standards/.*

Comment: Trade associations asked whether FSIS will issue guidelines to assist foreign governments in completing the process category, product category, and product group portion of the foreign inspection certificate.

Response: FSIS provided guidance on the process categories, product categories, and product groups in letters sent to foreign countries and industry before the PHIS Import component was implemented. This information is currently available on the FSIS Web site *http://www.fsis.usda.gov/wps/wcm/connect/d5f3ad49-133c-4a21-b0d9-5975c9e3e838/PHIS_Letter_to_Foreign_Countries_03202012.pdf?MOD=AJPERES&CACHEID=d2e89cb3-0581-45b5-8190-489bd4d7d36e.* In addition, the Agency is developing compliance guidelines to further assist in providing the required information. The industry guidance will be posted on the Agency's Web site, and the foreign government guidance will be sent to the competent authority of the foreign government.

Comment: Commenters questioned how FSIS will handle any delays caused by data entry errors on foreign inspection certificates. A commenter asked how FSIS will certify shipments when the electronic foreign certificate is unavailable through the PHIS Import Component and asked whether FSIS inspection personnel would clear shipments if they were presenting with a digital image, photocopy, or fax copy of the foreign inspection certificate. The commenter also asked how FSIS would handle replacement certificates.

Response: If there are data entry errors on the foreign inspection certificate, the shipment will either be refused entry or will be held by FSIS until the replacement certificate has been issued by the competent authority in the foreign country. FSIS Directive 9900.1, ''Imported Product Shipment Presentation,'' instructs FSIS inspection personnel to ''fail'' the Certification Type-of-Inspection (TOI) in PHIS and ask the applicant if they intend to rectify the issue (e.g., through replacement certificates) or allow the shipment to remain refused entry. The directive also instructs inspection personnel on how to proceed according to the applicant's response (e.g., replacement certification or refused-entry disposition).

Foreign governments that electronically transmit their foreign inspection certificates generally do so well in advance of the shipment's arrival at the United States port-of-entry so any unexpected disruption in transmission of the data into PHIS should have minimal impact with timely reinspection of the shipments at port-of-entry.

When a shipment from a country that does not certify electronically is presented to FSIS, the Agency will need an original paper certificate to clear the

shipment. For countries that do not have electronic certification, FSIS will accept replacement certificates in an alternative format, such as through email (e.g., digital image) from the foreign government to FSIS.

Comment: One trade association asked whether the original foreign inspection certificates will be needed when countries provide the certificates electronically.

Response: FSIS will no longer require a paper copy of the foreign inspection certificate when the competent authority in the foreign country certifies the shipment data electronically.

Comment: Commenters asked why FSIS was requiring importer, exporter, consignee, and consignor information on the foreign inspection certificate when this information may be redundant, is not useful for enforcement action, and is not consistent with United Nations Centre for Trade Facilitation and Electronic Commerce (UNCEFACT) international Electronic Certification (eCert) data standards and message structure, which requires only the name and contact details of the ''importer or consignee'' and ''exporter or consignor.'' One foreign country asked whether the new foreign inspection certificate requirements affect the current eCert data exchange.

Response: Although other parties are involved, the United States importer of record is required to control and present shipments to FSIS for reinspection. Therefore, FSIS requires importer information. FSIS requires exporter information because the exporter is the party responsible for sending the consignment (or shipment). However, FSIS acknowledges that proposing to require the importer, exporter, consignee, and consignor information is redundant and not consistent with international standards. Therefore, the Agency is amending the final rule to require information of the ''importer *or* consignee'' and ''exporter *or* consignor.''

The new data requirements may impact the current electronic data exchange as a result of having to map the new data elements between systems, though this issue has been addressed with the two countries that currently provide electronic certification data to the PHIS Import Component.

Comment: A consumer advocacy organization stated that FSIS should continue to require the product destination address if that address differs from the consignee's business address. The commenter also stated that FSIS should continue to require the foreign government's seal on foreign inspection certificates, as it serves to authenticate the government document.

Response: Because of the way shipments are manifested, there may be several consignees for one entry. Requiring an ''importer or consignee'' address, rather than the product destination address, provides sufficient information without compromising product control or information necessary for enforcement. In proposing to delete the seal requirements, FSIS anticipated that, as the electronic capabilities of the United States and its trading partners evolved, official seals would be replaced by secure data transmissions subject to security agreements between governments. However, in this final rule, until a foreign government has the capability to electronically transmit foreign inspection certification data, the Agency will continue to require that paper foreign inspection certificates bear the official seal of the foreign government agency responsible for the inspection of the product, to ensure the authenticity of the certificate.

Comment: One foreign government agency stated that, although the eCert data exchange with FSIS has been in place for months, the Agency has not conducted preliminary paperwork checks on certificates in the time available before presentation of product.

Response: Although FSIS has access to the data elements certified electronically in advance of the shipment arrival, most discrepancies with the certificates cannot be detected until the product is presented for reinspection. FSIS will consider performing preliminary verification on certificate information, recognizing that the final check will occur when the entry is filed and the shipment presented.

Import Inspection Application

Comment: Commenters asked whether the revised FSIS Form 9540–1, ''Import Inspection Application,'' would be available before or after the regulations are finalized so that exporters could begin creating application templates and adjusting to the new information requirements. A domestic trade association stated that FSIS should be more transparent in the development of the application. Several commenters also asked whether the Agency is moving forward with implementing the Partnering Government Agency (PGA) Message Set data collected through the U.S. Customs and Border Protection's (CBP) Automated Commercial Environment (ACE) system. The commenter stated that the use of the PGA Message Set data would reduce inspector data entry, thereby minimizing delays obtaining reinspection assignments.

Response: Before the PHIS Import Component was implemented in May 2012, FSIS notified foreign countries, importers, customs brokers, and official import inspection establishments of the new information in the revised Import Inspection Application (FSIS Form 9540–1) and provided a draft of the revised form. In addition, FSIS consulted with several major customs brokers when revising the application.

As discussed above, *the* Agency has finalized the draft revised Import Inspection Application (FSIS Form 9540–1). As discussed in the Paperwork Reduction Act section below, FSIS has submitted the form to OMB for final approval. When the form receives final OMB approval, the Agency will post the form on its Web site at: *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/federal-register/interim-and-final-rules.* The Agency is providing six months from the date of the publication of this final rule for applicants who continue to file paper applications to transition to the revised form and for applicants to update any templates they use to collect application information. In addition, the Agency began piloting the PGA message set with two brokers in April 2014.

Comment: One commenter asked whether FSIS would be updating FSIS directives and notices to give inspection program personnel guidance on the new data elements for the Import Inspection Application.

Response: All FSIS Import Directives (9000 Series) were revised before the implementation of the PHIS Import Component and are available on the FSIS Web site (*http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/directives/phis_directives*). In addition, inspection program personnel have been entering inspection application information into the PHIS Import Component since its implementation in May 2012. The Agency is updating the Import Directives to reflect the Agency's reorganization but does not believe it needs to provide further instruction on the new data elements to its inspection program personnel.

Comment: Commenters questioned the timeframes for completing the revised paper-based Import Inspection Application (an additional 6 minutes when compared to the old version) and for filing the application electronically rather than submitting a paper-based application (an additional 1 minute). The commenters stated that it would take much longer and asked for the justification of the timeframes and the

economic analysis based on the additional timeframes.

Response: As discussed in the Benefits and Costs section of the proposed rule (77 FR 70718), specifically Footnote 2, the Agency provided the time frames. Staff members conducted data entry simulation (i.e., entered data using the different formats) to estimate the additional time necessary to complete the revised paper-based Import Inspection Application and to electronically enter information into the ACE. The estimated additional time, the estimated number of Import Inspection Applications, and wage data from the Bureau of Labor Statistics provided the basis for the cost estimates to complete the paper-based application and electronically file the application.

Comment: One comment asked whether FSIS would increase staffing to enter data from the Import Inspection Application into the PHIS Import Component. One comment stated that the increase in the amount of data entry results in inspection assignment delays. Another comment asked whether FSIS will accept paper applications when the PHIS Import Component is unavailable, and what procedures are in place to distinguish between inspection applications filed electronically or by paper.

Response: FSIS does not intend to increase staffing for Import Inspection Application data entry. As FSIS inspection personnel have become more familiar with the PHIS Import Component, data entry time has decreased. Since implementation of the component, system enhancements have allowed more efficient data entry. When the PGA Message Set is implemented, the additional data elements needed to complete the Import Inspection Application will be transferred from ACE to the PHIS Import Component, eliminating the need for manual data entry by FSIS inspection personnel. When the PHIS Import Component is unavailable, FSIS Directive 9500.1, ''Contingency Plan for Import Reinspections When the Public Health Information System (PHIS) is Unavailable,'' instructs inspection personnel to verify the eligibility of the shipment and appropriate ''types of inspection'' according to the defined rates of inspection under the contingency plan. When the system becomes available, inspection personnel retrieve and complete the application in PHIS and proceed with requesting the assignments and entering the results of the inspection tasks that were performed. The PHIS Import Component tracks behind the user interface the method by which the application was received, i.e., whether it was entered manually or received from ACE.

Comment: One commenter wanted to know what action FSIS would take if a shipment arrives for reinspection before the paper import inspection application arrives.

Response: This final rule requires that Import Inspection Applications be submitted to FSIS in advance of the shipment's arrival at the official import inspection establishment, but no later than when the entry is filed with CBP (9 CFR 327.5(b), 381.198(b), and 590.920(b)). Inspection program personnel will first check the PHIS Import Component to confirm that the shipment made entry with CBP. For minor or inadvertent prior notice violations, FSIS will consider utilizing outreach (e.g., education and communication) with the IOR, and proceed with the reinspection if the entry is confirmed and a copy of the Import Inspection Application, along with the original foreign inspection certificate is submitted. However, if the violation reflects a history of repeated conduct of a similar nature by an IOR who has been notified of such violations, the shipment may be refused entry. It should be noted that applicants filing entry with the PGA Message Set will meet this prior notice requirement.

Comment: Comments from domestic trade associations stated that some data elements are the same for the import inspection application and the foreign inspection certificate, however the information may differ between the application and the certificate, e.g., a corporate address listed on the certificate, a company address on the application. The commenters asked which information, if different, would take precedence. One trade association asked how differences in data elements would be handled, e.g., a foreign country uses one Harmonized Tariff Schedule (HTS) code and a broker uses another.

Response: The Import Inspection Application is completed by an applicant, usually an importer or customs broker. Therefore, if there is any discrepancy in importer or consignee information between the Import Inspection Application and the Foreign Inspection Certificate, FSIS would rely on the information provided on the Import Inspection Application. For importers and brokers participating in the PGA Message Set, FSIS would rely on any importer or consignee information electronically transferred from ACE to the PHIS Import Component. For any product-based information, the foreign inspection certificate information, which is certified by an official of the foreign government, would take precedence over information provided on the Import Inspection Application. The HTS Code used by customs brokers must accurately represent the imported product. The HTS Code is filed with CBP when the entry is made, and transferred by CBP's ACE system into the PHIS Import Component. Therefore, the HTS code filed with CBP is the code that will take precedence.

Comment: Trade associations asked FSIS to clarify what HTS code will be required on the Import Inspection Application, since multiple HTS codes could be used for a specific product. The commenters also requested that FSIS clarify how new HTS codes will be made available to brokers.

Response: Customs brokers, when filing for entry with CBP, identify the HTS code for the entry, and those HTS codes are transferred from ACE to the PHIS Import Component. FSIS requires all the applicable HTS codes associated with the Import Inspection Application to be listed on the form (9 CFR 327.5, 381.198, and 590.920). For applicants that will utilize the PGA Message Set, ACE will prompt the filer to provide additional FSIS data elements (PG Records) for HTS codes that FSIS has identified as amenable product. CBP manages changes to the Harmonized Tariff Schedule.

Comment: One commenter asked that FSIS define the ''production codes'' information required on the Import Inspection Application.

Response: The revised Import Inspection Application (FSIS Form 9540–1), requests the ''production date(s),'' the date that the product was produced. If ''production codes'' are used on the product, they need to be translated into dates on the inspection certificate. However, the dates are only necessary if the foreign establishment has been delisted or relisted (9 CFR 327.2, 381.196).

Comments: One trade association asked how FSIS will process informal entries, because they may not use CBP's ACE system.

Response: Applicants (importers or consignees) are required to submit an Import Inspection Application to FSIS to apply for the reinspection of any amenable product offered for entry (9 CFR 327.5, 381.199, and 590.920). When an informal entry is made, i.e., an entry that does not utilize CBP's ACE system, CBP inputs the data into its electronic systems. FSIS receives the electronic data for informal entries via the Interconnectivity Web Services (IWS).

Prior Notification of Imported Product

Comment: One domestic trade association stated that FSIS should issue clear and consistent prior notification guidance and enforcement instructions to inspection program personnel. Other domestic trade associations stated that FSIS should clarify whether its import policies are aligned with CBP's, and whether there will be allowances for legitimate, mitigating circumstances, e.g., when ACE is not operational. In addition, these commenters asked that the Agency explain the consequences of failing to provide notification.

Response: When this final rule becomes effective, the applicant will be required to submit an Import Inspection Application in advance of the shipment's arrival, but no later than when the entry is filed with CBP (9 CFR 327.5, 381.198, 590.920). FSIS is committed to working through any ACE-to-PHIS Import Component data transfer problems to avoid any delays in completing reinspection. As discussed above, FSIS will take necessary enforcement actions if an importer repeatedly fails to provide prior notice to FSIS, should the need arise.

Comment: One trade association stated that airline shipments utilize manifests or air bills for entry into the United States, which often do not translate into ACE system entries. The commenter stated that FSIS should provide guidance to inspection program personnel on how to handle airline shipments.

Response: Air shipments are accompanied by manifests or air bills that report cargo to CBP; however, air shipment entries are processed the same way as other modes of transportation. Meat, poultry, and egg products shipments are identified by FSIS-specific HTS codes, the CBP entry data transfers from ACE to the PHIS Import Component, and inspection program personnel proceed with their reinspection activities.

Canadian Streamlined Inspection Procedures

Comment: Commenters stated that, since the United States and Canada currently have the U.S.-Canada Regulatory Cooperation Council (RCC) and the Beyond-the-Border (BtB) initiatives underway, the Agency should reconsider deleting the Canadian Streamlined Inspection procedures. One commenter asked FSIS to retain the streamlined procedures because reintroducing the streamlined procedures through future rulemaking may be more challenging than leaving the existing regulations in place. One comment stated that the streamlined procedures should not be deleted but amended to provide future flexibility for other countries. One comment stated that deleting the streamlined inspection procedures was a good housekeeping measure, and that the Agency should proceed with caution in moving forward too hastily with any pilot programs.

Response: As discussed in the preamble of the proposed rule (77 FR 70717), the Canadian Streamlined Inspection Procedures were codified in 1989 to further the goal of the 1988 U.S.-Canada Free Trade Agreement to reduce trade restrictions between the United States and Canada. However, because of concerns raised in a Government Accountability Office (GAO) report, FSIS suspended use of these inspection procedures in 1992.

The 2011 RCC and BtB initiatives were launched to explore more effective approaches to regulation that enhance the economic competitiveness and well-being of the United States and Canada, while maintaining high standards of public health and safety, and environmental protection. To further these initiatives, in July 2012, FSIS announced that it would conduct a BtB Action Plan pre-clearance initiative pilot program that would consider alternative methods for reviewing import documents before the shipments arrival at the United States border and alternative methods for releasing shipments destined for further processing at FSIS establishments. To date, the BtB pilot program has not begun. The Agency will evaluate the BtB pilot program when it is complete and will seek public input before taking any action or effecting any changes more broadly. Current FSIS regulations require reinspection of all imported shipments but are flexible enough to allow, in appropriate circumstances, these activities to occur in official establishments, egg product plants, or official import inspection establishments. To this extent, the regulations are consistent with the objective of the BtB pilot project. Consequently, FSIS is finalizing the proposed deletion of the Canadian Streamlined Inspection Procedures.

Sanitation Standard Operating Procedures (Sanitation SOPs)

Comment: Commenters questioned whether FSIS would withdraw or withhold inspection from official import establishments that fail to develop and implement Sanitation SOPs within the 60 days after publication of the final rule.

Response: FSIS does not anticipate that official import inspection establishments will delay or fail to develop Sanitation SOPs within 60 days after the publication of this final rule (the effective date) because, in practice, these establishments maintain these procedures during the reinspection of imported product. FSIS clearly explained in the proposed rule's preamble (77 FR 70717) and regulatory text (9 CFR 304.3 and 381.22) that official import inspection establishments would be required to develop and implement Sanitation SOPs. If an official import inspection establishment does not develop and implement Sanitation SOPs by the effective date of this final rule, the Agency may withhold inspection, under its Rules of Practice (9 CFR 500.3(a)(3)), until the official import inspection establishment meets the requirements of 9 CFR 304.3 and 381.22.

Comment: One foreign government asserted that reinspecting products at official import inspection establishments may preclude the opportunity for a more flexible future approach to import inspection, e.g., inspecting products while they are still at the port. The commenter stated that reinspection at port facilities would be less costly and less trade-restrictive, and that this is the predominant international practice.

Response: Conducting reinspection at official import inspection establishments does not preclude FSIS from considering alternative approaches to reinspecting imported product. FSIS requires reinspection of all products offered for entry (9 CFR 327.6(a), 381.199(a), and 590.925(a)), and it is the Agency's policy to perform import reinspection activities at official import inspection establishments in close proximity to a port-of-entry, thus minimizing costs to importers.

Foreign Inspection Certificate Replacement

Comment: Domestic trade associations stated that replacement certificates are not overly burdensome to the industry, as long as the foreign country's competent authority is able to quickly transmit the replacement certification through the PHIS Import Component. One commenter stated that the Agency should provide options for expedited reinspections for importers that do not use the PHIS Import Component, or when the PHIS Import Component is unavailable. A comment from a foreign government requested that FSIS clarify what constitutes a ''short time frame'' for lost foreign inspection certificates or certificates that contain mistakes.

Response: As FSIS explained in the preamble to the proposed rule, replacement foreign inspection certificates can easily be replaced by emailing a PDF of the certificate to *importinspection@fsis.usda.gov* or sending the certificate by expedited mail service (77 FR 70718). Foreign countries that use eCert can resend foreign inspection certification electronically. FSIS inspection program personnel will proceed with import reinspection activities only when they receive either the paper replacement certificate, or the electronic certification. Foreign countries are required to ensure that foreign inspection certificates accompany product (9 CFR 327.4, 381.197, and 590.915). Therefore, it is not appropriate for FSIS to designate a specific timeframe to foreign countries for replacing the certificate.

Failure To Present (FTP)

Comment: Several domestic trade associations requested that FSIS define ''in-commerce,'' for purposes of imported product that has bypassed reinspection and entered commerce. These commenters also requested clarification on whether transporting and storing imported product at a U.S. warehouse prior to reinspection would be considered a FTP.

Response: The importer is required to present all imported meat, poultry, and egg products for reinspection upon entry into the United States (9 CFR 327.6, 381.199, and 590.925). Once imported product leaves the official import inspection establishment, it is considered ''in-commerce,'' unless it is moved to another location under the control of the official import inspection establishment (e.g., under company seal).

If the FTP product shipment is delivered to the end user in the United States, the imported product, or any product produced from the ineligible product, may be subject to FSIS recall or destruction. FSIS does not permit storing of imported meat, poultry, and egg products in a warehouse or other facility prior to reinspection, unless the warehouse or facility has the same physical address as the official import inspection establishment and it is physically connected to the official import establishment.

Comment: A domestic trade association requested that FSIS alert import companies to potential FTP product problems as soon as they are discovered.

Response: FSIS inspection program personnel are instructed in FSIS Directive 9900.1 *http://www.fsis.usda.gov/OPPDE/rdad/FSISDirectives/PHIS_9900.1.pdf* to notify the applicant electronically through the PHIS Import Component when a shipment has not arrived at the official import inspection establishment by the Estimated Date of Arrival (EDA) recorded on the import inspection application.

Comment: Domestic trade associations requested clarification on whether storing a product shipment at an official import inspection establishment pending reinspection is an FTP. These commenters also asked FSIS to clarify if imported product in a truck driven past an official import inspection establishment after hours of operations to a rest stop 10 miles away for the weekend would be considered an FTP.

Response: FSIS does not consider a product shipment stored at an official import inspection establishment pending reinspection to be an FTP. Establishment managers notify FSIS import inspection personnel of the shipment's arrival so that the status of the shipment can be changed to ''On Premises'' in the PHIS Import Component. If a truck is driven past an official import inspection establishment to a rest stop, the product shipment would not be considered FTP if it arrives at the official import inspection establishment by the EDA, provided the shipment is intact and has not been off-loaded.

Comment: Trade associations asked if FTP product guidelines will be available to importers, brokers, and I-houses for correlation.

Response: FSIS is currently developing compliance guidelines that will include FTP product guidance for the importers, customs brokers, and official import inspection establishments, and will post the guidelines on the FSIS Web site as soon as they are available.

Other Comments

Preclearance Sampling

Comment: A foreign government commented that FSIS should collect the samples before the product is shipped to the United States so that the consignment could remain at the foreign establishment pending the results of the testing.

Response: FSIS's port-of-entry sampling is designed to monitor the performance and effectiveness of the foreign inspection system, and the Agency will continue to sample imported shipments before their entry into U.S. commerce. The foreign country has the opportunity to collect samples under its own sampling programs.

Stamping of Product

Comment: One foreign government requested that FSIS explain the justification for manually stamping every carton of product in a consignment.

Response: As required in 9 CFR 327.10(b) and 381.204(a), the outside containers of all products offered for entry from any foreign country (excluding Canada) that are accompanied with a foreign inspection certificate, are found not to be adulterated or misbranded, and are otherwise eligible for entry into the United States, shall be marked with the official inspection legend prescribed in 9 CFR 327.26 and 381.204(b). The stamping of imported product was not addressed in the proposed rule and is outside the scope of this final rule.

FSIS Jurisdiction in Facilities

Comment: Two trade associations asked FSIS to define where, within an official import inspection establishment, inspection program personnel would have jurisdiction.

Response: As provided in 9 CFR 304.2(a), when FSIS gives notice to the applicant granted inspection, the notice includes the limits of the establishment's premises, including official import inspection establishments, to which the grant pertains. In addition, the owner or operators of the official import inspection establishment must provide adequate facilities and equipment for examination of the imported product presented to FSIS personnel (9 CFR 327.6(e)). FSIS inspection personnel have authority to enter any areas of the premises in order to monitor and verify compliance with these conditions.

Executive Order 12866 and Executive Order 13563

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action'' under section 3(f) of Executive Order 12866. Accordingly,

the rule has not been reviewed by the Office of Management and Budget.

Benefits and Costs of the Final Rule

The changes made by this final rule are necessary to provide for the Agency's PHIS Import Component. The PHIS Import Component facilitates trade with foreign countries by providing the electronic exchange of import data and documentation. The PHIS Import Component interfaces with the ACE to provide the automatic transfer of all import-related data among FSIS and other Government agencies that regulate trade, such as the CBP. This transfer of data creates new safety standards and strengthens existing ones.

The PHIS Import Component enables FSIS import inspection personnel to verify import shipments using electronic data. The Agency estimates that electronic imported product information reduces the data-entry time for import inspectors by 50 to 60 percent. This does not mean that the Agency is going to reduce the number of import inspectors based on enhanced PHIS-related efficiencies. This final rule streamlines existing import documentation requirements by making the foreign inspection certificate consistent among meat, poultry, and egg products. In addition, the final rule updates the required information on applications and certificates to fortify the effectiveness of import inspection regulations. For example, for the Import Inspection Application (FSIS Form 9540–1), the Agency will require the source country and establishment number when the source materials originate from a country other than the exporting country. The additional information will help FSIS verify that source products are from countries and establishments eligible to export products to the United States, and that the product itself is eligible for importation. The additional information will also assist inspection and enforcement personnel in tracing, retrieving, and controlling product in the event of a recall.

Several changes under this final rule may have a cost impact on the industry. However, the Agency believes the impacts of the final rule will be very small, if any. The possible impacts include:

(1) *The electronic foreign inspection and foreign establishment certificates and the electronic import inspection application.* Under this final rule, the industry will have the option of filing Import Inspection Applications electronically, and foreign governments will have the option of submitting electronic inspection and foreign establishment certifications and data. As this is a voluntary option, FSIS assumes industry will chose to file electronically only if the benefits to them surpass their costs.

(2) *Additional information entry.* This final rule requires additional information for the import inspection application, which will increase the amount of time to fill out the application. The time needed to provide the additional information will depend on (1) the number of lots, and (2) how the information is entered, i.e., paper or electronic.

For applicants that submit a paper-based Import Inspection Application, FSIS estimates that it will take 6 more minutes to complete the new application, based on a comparison between the old and the new paper-based application. FSIS also estimates that electronically filing the Import Inspection Application will take, on average, an additional minute per application in comparison with the old paper-based application.[1] Updated Agency data show that there are, on average, a total of 108,140 applications per year that will be filed electronically using the ACE, and that 2,300 applications per year will be completed manually.[2] Therefore, the total additional time for electronically filing the application will be 1,802 hours (108,140 * 1/60 = 1,802) and the additional time for completing the new paper-based application will be 232 hours (2,317 * 6/60 = 232). Monetizing these hours by $38 per hour,[3] the estimated cost to complete the new application would be about $77,000 ($38 * (232 + 1,802)) per year.

(3) Sanitation Standard Operating Procedures (SOPs) as a condition of approval for official import inspection establishments. The final rule clarifies that official import inspection establishments must have developed written Sanitation SOPs before being granted approval. Official import inspection establishments will be given 60 days after the publication of the final rule to develop and implement written Sanitation SOPs. Since, in practice, many official import inspection establishments maintain Sanitation SOPs during the reinspection of imported products, requiring Sanitation SOPs will have little cost impact (including recordkeeping cost impact) on the industry.

(4) The final rule removes the regulatory provisions for the streamlined import inspection system for Canadian product. Since the procedures have been obsolete since 1992, removing the regulatory provisions will have no significant economic impact.

Regulatory Flexibility Analysis

The FSIS Administrator certifies that, for the purposes of the Regulatory Flexibility Act (5 U.S.C. 601–602), this final rule will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act. If small entities are unable to meet the requirements necessary to use the electronic import system, FSIS will continue to accept paper applications. Similarly, the other changes in the final rule will not result in significant costs to industry and, therefore, will not have a significant impact on a substantial number of small entities.

Executive Order 12988

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

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.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the information collection requirement associated with this final rule has been submitted for approval to the Office of Management and Budget (OMB). This information collection request is at OMB awaiting approval. FSIS will collect no information associated with this rule until the information collection is approved by OMB.

[1] Time estimates from the International Policy Division (currently the International Relations and Strategic Planning Staff (IRSPS)), Office of Policy and Program Development, FSIS, USDA.

[2] Number of applications from the Automated Import Inspection System (AIIS) and the Public Health Information System, FSIS, USDA.

[3] Bureau of Labor Statistics ''Occupational Employment & Wages'' Database, May 2012. Animal Production Managers, all other $48.51 @ 47.6% time; General and Operations Managers $37.22 @ 26.2% time; Food scientists and technologists $18.45 @ 26.2% time = $38.00 Managerial Median hourly wage.

Copies of this information collection assessment can be obtained from Gina Kouba, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW., Room 6077, South Building, Washington, DC 20250–3700; (202) 690–6510.

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.

Additional Public Notification

FSIS will announce this rule online through the FSIS Web page located at *http://www.fsis.usda.gov/regulations_&_policies/Proposed_Rules/index.asp*

FSIS will also 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 constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail 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/wps/portal/fsis/programs-and-services/email-subscription-service.*

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.

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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).

List of Subjects

9 CFR Part 304

Meat inspection.

9 CFR Part 327

Imports.

9 CFR Part 381

Poultry and poultry products.

9 CFR Part 590

Eggs and egg products.

For the reasons discussed in the preamble, FSIS is amending 9 CFR Chapter III as follows:

PART 304—APPLICATION FOR INSPECTION; GRANT OF INSPECTION

■ 1. The authority citation for part 304 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

■ 2. In § 304.3, revise paragraph (a) to read as follows:

§ 304.3 Conditions for receiving inspection.

(a) Before being granted Federal inspection, an official establishment or an official import inspection establishment must have developed written Sanitation Standard Operating Procedures, as required by part 416 of this chapter, and written recall procedures as required by part 418 of this chapter.

* * * * *

PART 327—IMPORTED PRODUCTS

■ 3. The authority citation for part 327 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

■ 4. In § 327.1, revise paragraph (a) to read as follows:

§ 327.1 Definitions; application of provisions.

(a) When used in this part, the following terms are defined to mean:

(1) *Import (imported).* To bring within the territorial limits of the United States whether that arrival is accomplished by land, air, or water.

(2) *Offer(ed) for entry.* The point at which the importer presents the imported product for reinspection.

(3) *Entry (entered).* The point at which imported product offered for entry receives reinspection and is marked with the official mark of inspection, as required by § 327.26.

* * * * *

■ 5. In § 327.2, revise paragraph (a)(3) to read as follows:

§ 327.2 Eligibility of foreign countries for importation of products into the United States.

(a) * * *

(3) Only those establishments that are determined and certified to the Agency by a responsible official of the foreign meat inspection system as fully meeting the requirements of paragraphs (a)(2)(i) and (ii) of this section are eligible to have their products imported into the United States. Establishment eligibility is subject to review by the Agency (including observations of the establishments by Program representatives at times prearranged with the foreign meat inspection system officials). Foreign establishment certifications must be renewed annually. Notwithstanding certification by a foreign official, the Administrator may terminate the eligibility of any foreign establishment for the importation of its products into the United States if it does not comply with the requirements listed in paragraphs (a)(2)(i) and (ii) of this section, or if current establishment information cannot be obtained. The Administrator will provide reasonable notice to the foreign government of the proposed termination of any foreign establishment, unless a delay in terminating its eligibility could result in the importation of adulterated or misbranded product.

(i) For a new establishment, or any establishment for which information from last year's electronic certification

or paper certificate has changed, the certification or certificate must contain: The date; the foreign country; the foreign establishment's name, address, and foreign establishment number; the foreign official's title and signature (for paper certificates only); the type of operations conducted at the establishment (e.g., slaughter, processing, storage, exporting warehouse); and the establishment's eligibility status (e.g., new or relisted (if previously delisted)). Slaughter and processing establishment certifications must address the species and type of products produced at the establishment (e.g., the process category).

(ii) If the establishment information provided on the preceding year's electronic foreign establishment certification or paper certificate, as required in paragraph (a)(3)(i) of this section, has not changed, the certification or certificate must contain: The date, the foreign country, the foreign establishment's name, and the foreign official's title and signature (for paper certificates only).

* * * * *

■ 6. Revise § 327.4 to read as follows:

§ 327.4 Foreign inspection certificate requirements.

(a) Except as provided in § 327.16, each consignment imported into the United States must have an electronic foreign inspection certification or a paper foreign inspection certificate issued by an official of the foreign government agency responsible for the inspection and certification of the product.

(b) An official of the foreign government must certify that any product described on any official certificate was produced in accordance with the regulatory requirements in § 327.2.

(c) The electronic foreign inspection certification must be in English, be transmitted directly to FSIS before the product's arrival at the official import inspection establishment, and be available to import inspection personnel.

(d) The paper foreign inspection certificate must accompany each consignment; be submitted to import inspection personnel at the official import inspection establishment; be in English; bear the official seal of the foreign government responsible for the inspection of the product, and the name, title, and signature of the official authorized to issue inspection certificates for products imported to the United States.

(e) The electronic foreign inspection certification and paper foreign inspection certificate must contain:

(1) The date;

(2) The foreign country of export and the producing foreign establishment number;

(3) The species used to produce the product and the source country and foreign establishment number, if the source materials originate from a country other than the exporting country;

(4) The product's description, including the process category, the product category, and the product group;

(5) The name and address of the importer or consignee;

(6) The name and address of the exporter or consignor;

(7) The number of units (pieces or containers) and the shipping or identification mark on the units;

(8) The net weight of each lot; and

(9) Any additional information the Administrator requests to determine whether the product is eligible to be imported into the United States.

■ 7. Revise § 327.5 to read as follows:

§ 327.5 Import inspection application.

(a) Applicants must submit an import inspection application, to apply for the inspection of any product offered for entry. Applicants may apply for inspection using a paper or electronic application form.

(b) Import inspection applications for each consignment must be submitted (electronically or on paper) to FSIS in advance of the shipment's arrival at the official import establishment where the product will be reinspected, but no later than when the entry is filed with U.S. Customs and Border Protection.

(c) The provisions of this section do not apply to products that are exempted from inspection by §§ 327.16 and 327.17.

■ 8. In § 327.6, revise paragraphs (a) and (e) to read as follows:

§ 327.6 Products for importation; program inspection, time and place; application for approval of facilities as official import inspection establishment; refusal or withdrawal of approval; official numbers.

(a)(1) Except as provided in §§ 327.16 and 327.17, all products offered for entry from any foreign country shall be reinspected by a Program inspector before they shall be allowed entry into the United States.

(2) Every lot of product shall routinely be given visual inspection by a Program import inspector for appearance and condition, and checked for certification and label compliance.

(3) The electronic inspection system shall be consulted for reinspection instructions. The electronic inspection system will assign reinspection levels and procedures based on established sampling plans and established product and plant history.

(4) When the inspector deems it necessary, the inspector may sample and inspect lots not designated by the electronic inspection system.

* * * * *

(e) Owners or operators of official import inspection establishments must furnish adequate sanitary facilities and equipment for examination of such product. The requirements of §§ 304.2, 307.1, 307.2(b), (d), (f), (h), (k), and (l), and part 416 of this chapter shall apply as conditions for approval of establishments as official import inspection establishments to the same extent and in the same manner as they apply with respect to official establishments.

* * * * *

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

■ 9. 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.

■ 10. In § 381.1, in paragraph (b), add a definition for *Official import inspection establishment* in alphabetical order to read as follows:

§ 381.1 Definitions.

* * * * *

(b) * * *

Official import inspection establishment. This term means any establishment, other than an official establishment as defined in this definition where inspections are authorized to be conducted as prescribed in § 381.199.

* * * * *

■ 11. In § 381.22, revise paragraph (a) to read as follows:

§ 381.22 Conditions for receiving inspection.

(a) Before being granted Federal inspection, an official establishment or an official import inspection establishment, must have developed written Sanitation Standard Operating Procedures, as required by part 416 of this chapter, and written recall procedures as required by part 418 of this chapter.

* * * * *

■ 12. In § 381.195, revise paragraph (a) to read as follows:

§ 381.195 Definitions; requirements for importation into the United States.

(a) When used in this part, the following terms are defined to mean:

(1) *Import (imported).* To bring within the territorial limits of the United States whether that arrival is accomplished by land, air, or water.

(2) *Offer(ed) for entry.* The point at which the importer presents the imported product for reinspection.

(3) *Entry (entered).* The point at which imported product offered for entry receives reinspection and is marked with the official mark of inspection, as required by § 381.204.

* * * * *

■ 13. In § 381.196, revise paragraph (a)(3) to read as follows:

§ 381.196 Eligibility of foreign countries for importation of poultry products into the United States.

(a) * * *

(3) Only those establishments that are determined and certified to the Agency by a responsible official of the foreign meat inspection system as fully meeting the requirements of paragraphs (a)(2)(i) and (ii) of this section are eligible to have their products imported into the United States. Establishment eligibility is subject to review by the Agency (including observations of the establishments by Program representatives at times prearranged with the foreign meat inspection system officials). Foreign establishment certifications must be renewed annually. Notwithstanding certification by a foreign official, the Administrator may terminate the eligibility of any foreign establishment for the importation of its products into the United States if it does not comply with the requirements listed in paragraphs (a)(2)(i) and (ii) of this section, or if current establishment information cannot be obtained. The Administrator will provide reasonable notice to the foreign government of the proposed termination of any foreign establishment, unless a delay in terminating its eligibility could result in the importation of adulterated or misbranded product.

(i) For a new establishment or any establishment for which information from last year's electronic certification or paper certificate has changed, the certification or certificate must contain: The date; the foreign country; the foreign establishment's name, address, and foreign establishment number; the foreign official's title; the foreign official's signature (for paper certificates only); the type of operation(s) conducted at the establishment (e.g., slaughter, processing, storage, exporting warehouse); and the establishment's eligibility status (e.g., new or relisted (if previously delisted)). Slaughter and processing establishment certifications must address the species and type of products produced at the establishment (e.g., the process category).

(ii) If the establishment information provided on the preceding year's electronic foreign establishment certification or paper certificate, as required in paragraph (a)(3)(i) of this section, has not changed, the certification or certificate must contain: The date, the foreign country, the foreign establishment's name, the foreign official's title and signature (for paper certificates only).

* * * * *

■ 14. Revise § 381.197 to read as follows:

§ 381.197 Foreign inspection certificate requirements.

(a) Except as provided in §§ 381.207 and 381.209, each consignment imported into the United States must have an electronic foreign inspection certification or a paper foreign inspection certificate issued by an official of the foreign government agency responsible for the inspection and certification of the product.

(b) An official of the foreign government must certify that any product described on any official certificate was produced in accordance with the regulatory requirements in § 381.196.

(c) The electronic foreign inspection certification must be in English, be transmitted directly to FSIS before the product's arrival at the official import inspection establishment, and be available to import inspection personnel.

(d) The paper foreign inspection certificate must accompany each consignment; be submitted to import inspection personnel at the official import inspection establishment; be in English; and bear the official seal of the foreign government responsible for the inspection of the product, and the name, title, and signature of the official authorized to issue inspection certificates for products imported to the United States.

(e) The electronic foreign inspection certification and paper foreign inspection certificate must contain:

(1) The date;

(2) The foreign country of export and the producing foreign establishment number;

(3) The species used to produce the product and the source country and foreign establishment number, if the source materials originate from a country other than the exporting country;

(4) The product's description, including the process category, the product category, and the product group;

(5) The name and address of the importer or consignee;

(6) The name and address of the exporter or consignor;

(7) The number of units (pieces or containers) and the shipping or identification mark on the units;

(8) The net weight of each lot; and

(9) Any additional information the Administrator requests to determine whether the product is eligible to be imported into the United States.

■ 15. Revise § 381.198 to read as follows:

§ 381.198 Import inspection application.

(a) Applicants must submit an import inspection application to apply for the inspection of any product offered for entry. Applicants may apply for inspection using a paper or electronic application form.

(b) Import inspection applications for each consignment must be submitted (electronically or on paper) to FSIS in advance of the shipment's arrival at the official import establishment where the product will be reinspected, but no later than when the entry is filed with U.S. Customs and Border Protection.

(c) The provisions of this section do not apply to products that are exempted from inspection by §§ 381.207 and 381.209.

■ 16. In § 381.199, revise paragraph (a) and add paragraph (e) through (k) to read as follows:

§ 381.199 Inspection of poultry products offered for entry.

(a)(1) Except as provided in § 381.209 and paragraph (c) of this section, all slaughtered poultry and poultry products offered for entry from any foreign country shall be reinspected by a Program import inspector before they shall be allowed entry into the United States.

(2) Every lot of product shall routinely be given visual inspection for appearance and condition, and checked for certification and label compliance.

(3) The electronic inspection system shall be consulted for reinspection instructions. The electronic inspection system will assign reinspection levels and procedures based on established sampling plans and established product and plant history.

(4) When the inspector deems it necessary, the inspector may sample

and inspect lots not designated by the electronic inspection system.

* * * * *

(e) All products, required by this part to be inspected, shall be inspected only at an official establishment or at an official import inspection establishment approved by the Administrator as provided in this section. Such approved official import inspection establishments will be listed in the Meat, Poultry and Egg Product Inspection Directory, published by the Food Safety and Inspection Service. The listing will categorize the kind or kinds of product which may be inspected at each official import inspection establishment, based on the adequacy of the facilities for making such inspections and handling such products in a sanitary manner.

(f) Owners or operators of establishments, other than official establishments, who want to have import inspections made at their establishments, shall apply to the Administrator for approval of their establishments for such purpose. Application shall be made on a form furnished by the Program, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC, and shall include all information called for by that form.

(g) Approval for Federal import inspection shall be in accordance with subpart D of this part.

(h) Owners or operators of establishments at which import inspections of product are to be made shall furnish adequate sanitary facilities and equipment for examination of such product. The requirements of §§ 381.21 and 381.36, and part 416 of this chapter shall apply as conditions for approval of establishments as official import inspection establishments to the same extent and in the same manner as they apply with respect to official establishments.

(i) The Administrator is authorized to approve any establishment as an official import inspection establishment provided that an application has been filed and drawings have been submitted in accordance with the requirements of paragraphs (c) and (d) of this section and he determines that such establishment meets the requirements under paragraph (e) of this section. Any application for inspection under this section may be denied or refused in accordance with the rules of practice in part 500 of this chapter.

(j) Approval of an official import inspection establishment may be withdrawn in accordance with applicable rules of practice if it is determined that the sanitary conditions are such that the product is rendered adulterated, that such action is authorized by section 21(b) of the Federal Water Pollution Control Act, as amended (84 Stat. 91), or that the requirements of paragraph (e) of this section were not complied with. Approval may also be withdrawn in accordance with section 401 of the Act and applicable rules of practice.

(k) A special official number shall be assigned to each official import inspection establishment. Such number shall be used to identify all products inspected and passed for entry at the establishment.

PART 590—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

■ 17. The authority citation for part 590 continues to read as follows:

Authority: 21 U.S.C. 1031–1056.

■ 18. Revise § 590.915 to read as follows:

§ 590.915 Foreign inspection certificate requirements.

(a) Except as provided in § 590.960, each consignment imported into the United States must have an electronic foreign inspection certification or a paper foreign inspection certificate issued by an official of the foreign government agency responsible for the inspection and certification of the product.

(b) An official of the foreign government agency must certify that any product described on any official certificate was produced in accordance with the regulatory requirements § 590.910.

(c) The electronic foreign inspection certification must be in English, be transmitted directly to FSIS before the product's arrival at the official import inspection establishment, and be available to import inspection personnel.

(d) The paper foreign inspection certificate must accompany each consignment; be submitted to import inspection personnel at the official import inspection establishment; be in English; and bear the official seal of the foreign government responsible for the inspection of the product, and the name, title, and signature of the official authorized to issue the inspection certificates for products imported into the United States.

(e) The electronic foreign inspection certification and paper foreign inspection certificate must contain:

(1) The date;

(2) The foreign country of export and the producing foreign establishment number;

(3) The species used to produce the product and the source country and foreign establishment number, if the source materials originate from a country other than the exporting country;

(4) The product's description including the process category, the product category, and the product group;

(5) The name and address of the importer or consignee;

(6) The name and address of the exporter or consignor;

(7) The number of units (pieces or containers) and the shipping or identification mark on the units;

(8) The net weight of each lot; and

(9) Any additional information the Administrator requests to determine whether the product is eligible to be imported into the United States.

■ 19. Revise § 590.920 to read as follows:

§ 590.920 Import inspection application.

(a) Applicants must submit an import inspection application to apply for the inspection of any product offered for entry. Applicants may apply for inspection using a paper or electronic application form.

(b) Import inspection applications for each consignment must be submitted (electronically or on paper) to FSIS in advance of the shipment's arrival at the official import establishment where the product will be reinspected, but no later than when the entry is filed with U.S. Customs and Border Protection.

(c) The provisions of this section do not apply to products that are exempted from inspection by §§ 590.960 and 590.965.

Done at Washington, DC, on September 11, 2014.

Alfred V. Almanza,

Administrator.

[FR Doc. 2014–22206 Filed 9–18–14; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 391

[Docket No. FSIS–2014–0026]

RIN 0583–AD

Change in Accredited Laboratory Fees

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending its regulations to change the fees it charges for the accreditation and the maintenance of accreditation of non-Federal laboratories for the FSIS Accredited Lab Program (ALP). The fees in this final rule will be applied on the effective date.

DATES: This final rule is effective November 18, 2014.

FOR FURTHER INFORMATION CONTACT: Charles Williams, Room 6065, South Agriculture Building, 1400 Independence Ave. SW., Washington, DC 20250–0235, Phone: (202) 720–5627, Email: *charles.williams@fsis.usda.gov*.

SUPPLEMENTARY INFORMATION:

Background

FSIS has been delegated the authority to exercise the functions of the Secretary of Agriculture (7 CFR 2.18, 2.53) as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*). FSIS protects the public by verifying that meat and poultry products are wholesome, not adulterated, and properly marked, labeled, and packaged.

In addition, under the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (7 U.S.C. 138–138i), FSIS has authority to accredit non-Federal laboratories. The accreditation allows non-Federal laboratories to conduct analyses of official regulatory meat and poultry samples. One provision (7 U.S.C. 138f) requires that a laboratory seeking accreditation under the 1990 Act or under the FMIA or PPIA pay a non-refundable accreditation fee to cover the costs of the Accredited Laboratory Program.

Proposed and Final Rules

On April 21, 2014, FSIS published a proposed rule to amend 9 CFR 391.5(a) to change the fee structure for the accreditation and the maintenance of the accreditation of laboratories for the FSIS Accredited Laboratory Program (ALP) (79 FR 22052). FSIS did not receive any comment on the proposed rule. Hence, it is adopting the proposed rule in its entirety as its final rule.

FSIS explained in the proposed rule that under the regulations currently in effect, FSIS charges each laboratory a flat annual fee of $5,000 per accreditation or maintenance of accreditation. FSIS further explained that a laboratory may apply for FSIS accreditation and maintenance of accreditation in one to six analyte classes: Food Chemistry, chlorinated hydrocarbons (CHCs), polychlorinated biphenyls (PCBs), arsenic, nitrosamines, and sulfonamides. Under the regulations currently in effect, FSIS charges laboratories the flat rate of $5,000 for each accreditation obtained regardless of the type or the number of accreditations. A laboratory accredited for all six analyte classes is charged a total fee of $30,000. FSIS bills annually for the costs of the services it provides the laboratories, including the cost of FSIS auditing non-Federal laboratories, conducting periodic proficiency test sample studies, conducting on-site reviews, and maintaining accreditation (includes analyzing proficiency test results and documentation).

FSIS explained that the costs to the ALP can be reduced when laboratories apply for multiple accreditations, because most of the cost to the Agency in conducting the ALP is in travel and administering sample studies to determine laboratory proficiency.

Therefore, as proposed, FSIS is amending the regulations to include a sliding scale for accreditations and the maintenance of accreditations after payment of the base fee of $5,000 for the first accreditation that a laboratory receives. Under the final rule, FSIS will charge laboratories $5,000 per year for the first analyte class accreditation or maintenance of accreditation, $2,900 per year for the second, and $2,100 per year for each additional analyte class accreditation or maintenance of accreditation.

As FSIS proposed, the final rule includes a fee of $2,900 [1] for the second accreditation because FSIS staff can review multiple accreditations (different analyte classes) for the same laboratory in one trip. Under the final rule, FSIS will charge $2,100 [2] each for the third, fourth, fifth, and sixth accreditations, because, when a laboratory has three or more accreditations, some of the instrument types and chemical processes are similar from analysis to analysis. This fact means that the review will be less labor-intensive. FSIS determined that costs to participants in the accredited laboratory program will cover the cost to the Agency for the administration of the program. The costs are included below in Table 1 and are based on available FSIS laboratory and personnel cost data.

TABLE 1—ALP FEE SCHEDULE

Item	Accreditations		
	1	2	3–6
Auditing of non-Federal Laboratories	$2,546	$816	$408
Proficiency Tests	1,237	1,237	1,237
Maintenance of Accreditation	918	536	153
Additional Costs	347	347	347
Total	5,048	2,936	2,145
Rounded Total	5,000	2,900	2,100

Executive Order 12866 and Executive Order 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). 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 ''non-significant'' regulatory action under section 3(f) of Executive Order (E.O.) 12866. Accordingly, the rule has not

[1] Source: FSIS, OPHS, LQAS, Accredited Laboratory Program.

[2] Ibid.

been reviewed by the Office of Management and Budget under E.O. 12866.

Baseline

The FSIS Accredited Laboratory Program, (ALP) is voluntary and charges a non-refundable accreditation fee. Currently, the annual fee is $5,000 per accreditation (Table 2). As discussed above, FSIS is reducing the fees after the first accreditation. Table 2 below compares current fees to proposed fees.

TABLE 2—CURRENT AND PROPOSED ACCREDITATION FEE SCHEDULE

Accreditation	Current accreditation lab fee	New accreditation lab fee
First	$5,000	$5,000
Second	5,000	2,900
Third–Sixth	5,000	2,100

Currently, there are 53 laboratories accredited for 60 activities.[3] Most (42 out of 53) laboratories are accredited for food chemistry. There are 13 laboratories accredited for CHCs and five laboratories for PCBs. Only five of the 53 laboratories are accredited for more than one analyte. These laboratories are accredited for 2–3 analytes. The analysis below assumes laboratories will keep the same number of accreditations under the new fee structure.

Expected Cost of the Final Rule

For the purposes of this analysis, FSIS considered the pre- and post-rule cost to the industry; they are shown in Table 3 below. The cost to the industry will fall from $300,000 per year to $283,700 per year.

TABLE 3—ANNUAL COSTS PRE- AND POST-RULE

Number of analyte classes	Pre-rule		Post-rule	
	Number labs	Industry cost	Number labs	Industry cost
1	48	$240,000	48	$240,000
2	3	[4] 30,000	3	[5] 23,700
3	2	30,000	2	20,000
	53	300,000	53	283,700

Expected Benefits of the Final Rule

The benefit accrued to the industry is equivalent to current accreditation costs minus the new accreditation costs which incorporate the efficiencies outlined in the preamble.

The final rule will benefit the lab industry by offering a sliding accreditation fee schedule. The lower cost is a result of leveraging efficiencies in the current accreditation process that will allow the industry to realize cost savings if they increase the number of accreditations. Under the current accreditation fee schedule, the total industry cost is estimated as $300,000 ($300,000 = 60 Accreditations × $5,000) (Table 3). Therefore, the total industry cost is $283,700, a net benefit of $16,300 ($300,000 − $283,700 = $16,300). If the total number of accreditations remains unchanged, the present value of total industry net benefit due to the final rule (Table 4), adjusted with 3% inflation rate for 10 years is $139,000, resulting in an annualized expected benefit of $16,295.

TABLE 4—SUMMARY OF COSTS AND BENEFITS

Current costs (FY13)	Proposed costs (FY14)	Proposed benefits	Net Benefits (10 years, 3%)
$300,000	$283,700	$16,300	$139,000

Final Regulatory Flexibility Analysis

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

Paperwork Reduction Act

This rule does not contain any new information collection or recordkeeping requirements that are subject to the Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

E-Government Act

FSIS and USDA are committed to achieving the purposes of the E-Government Act (44 U.S.C. 3601, *et*

[3] FSIS, OPHS, LQAS, Accredited Laboratory Program.

[4] Calculation—Total Cost = (Accreditation 1 Cost * Number of Laboratories) + (Accreditation 2 Cost * Number of Laboratories) = ($5,000 * 3) + ($5,000 * 3).

[5] Calculation—Total Cost = (Accreditation 1 Cost * Number of Laboratories) + (Accreditation 2 Cost * Number of Laboratories) = ($5,000 * 3) + ($2,900 * 3).

seq.) by, among other things, promoting the use of the Internet and other information technologies and providing increased opportunities for citizen access to Government information and services, and for other purposes.

Executive Order 12988

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

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.

Additional Public Notification

FSIS will announce this notice online through the FSIS Web page located at *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/federal-register.*

FSIS will also 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 constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail 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/wps/portal/fsis/programs-and-services/email-subscription-service.* 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.

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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).

List of Subjects in 9 CFR Part 391

Fees and charges.

For the reasons discussed in the preamble, FSIS amends 9 CFR Chapter III as follows:

PART 391—FEES AND CHARGES FOR INSPECTION AND LABORATORY ACCREDITATION

■ 1. The authority citation for part 391 continues to read as follows:

Authority: 7 U.S.C. 138d, 7 U.S.C. 1622, 1627, and 2219a; 21 U.S.C. 451 *et seq.;* 21 U.S.C. 601–695.

■ 2. Revise paragraph (a) of § 391.5 to read as follows:

§ 391.5 Laboratory accreditation fee.

(a) The annual fee for the accreditation and maintenance of accreditation provided pursuant to § 439.5 of this chapter shall be $5,000 for the first analyte class, $2,900 for the second analyte class, and $2,100 for each additional analyte class.

* * * * *

Done at Washington, DC, on September 11, 2014.

Alfred Almanza,

Administrator.

[FR Doc. 2014–22208 Filed 9–18–14; 8:45 am]

BILLING CODE 3410–DM–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

[NRC–2012–0246]

RIN 3150–AJ20

Continued Storage of Spent Nuclear Fuel

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is revising its generic determination regarding the environmental impacts of the continued storage of spent nuclear fuel beyond a reactor's licensed life for operation and prior to ultimate disposal. The NRC prepared a final generic environmental impact statement that provides a regulatory basis for this final rule. The Commission concludes that the generic environmental impact statement generically determines the environmental impacts of continued storage of spent nuclear fuel beyond the licensed life for operation of a reactor. The final rule also clarifies that the generic determination applies to license renewal for an independent spent fuel storage installation (ISFSI), reactor construction permits, and early site permits. The final rule clarifies how the generic determination will be used in future NRC environmental reviews, and makes changes to improve readability. Finally, the final rule makes conforming amendments to the determinations on the environmental effects of renewing the operating license of a nuclear power plant to address issues related to the onsite storage of spent nuclear fuel and offsite radiological impacts of spent nuclear fuel and high-level waste disposal.

DATES: This final rule is effective on October 20, 2014.

ADDRESSES: Please refer to Docket ID NRC–2012–0246 when contacting the NRC about the availability of information for this final rule. You may access publicly-available information related to this final rule by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search

for Docket ID NRC–2012–0246. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this final rule.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select *''ADAMS Public Documents''* and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this final rule (if that document is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section. In addition, for the convenience of the reader, the ADAMS accession numbers are provided in a table in the ''Availability of Documents'' section of this document.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Merri Horn, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–287–9167; email: *Merri.Horn@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Executive Summary

A. Need for the Regulatory Action

The purpose of this final rule (rule) is to preserve the efficiency of the NRC's licensing process by adopting into the NRC's regulations the Commission's generic determinations of the environmental impacts of the continued storage of spent nuclear fuel (spent fuel) beyond the licensed life for operations of a reactor (continued storage). The NRC has prepared a final generic environmental impact statement that addresses the environmental impacts of continued storage and provides a regulatory basis for this rule. This rule codifies the results of the analyses from the generic environmental impact statement in § 51.23 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Environmental impacts of continued storage of spent nuclear fuel beyond the licensed life for operation of a reactor.'' The NRC's licensing proceedings for nuclear reactors and ISFSIs have historically relied upon the generic determination in 10 CFR 51.23 to satisfy the agency's obligations under the National Environmental Policy Act (NEPA) with respect to the narrow area of the environmental impacts of continued storage. Environmental impact statements for future reactor and spent-fuel-storage facility licensing actions will not separately analyze the basis for the environmental impacts of continued storage and, as discussed in 10 CFR 51.23, the impact determinations from the generic environmental impact statement are deemed to be incorporated into these environmental impact statements. Environmental assessments for future reactor and spent-fuel-storage facility licensing actions will consider the environmental impacts of continued storage, if the impacts of continued storage of spent fuel are relevant to the proposed action.

B. Major Provisions

The major changes to the rule are summarized as follows:

• The heading of 10 CFR 51.23 is revised to ''Environmental impacts of continued storage of spent nuclear fuel beyond the licensed life for operation of a reactor.''

• Paragraph (a) of 10 CFR 51.23 is revised to provide the Commission's generic determination regarding the continued storage of spent nuclear fuel. The amendments state that the Commission has generically determined that the environmental impacts of continued storage of spent nuclear fuel beyond the licensed life for operation of a reactor are those impacts identified in NUREG–2157, ''Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel'' (GEIS).

• Paragraph (b) of 10 CFR 51.23 is revised to clarify that license renewals for ISFSIs, reactor construction permits, and early site permits are included in the scope of the generic determination. The rule also makes changes to improve readability and to clarify that applicants do not need to address continued storage in their environmental reports. The rule also clarifies that the NRC shall deem the impact determinations in NUREG–2157 regarding continued storage of spent fuel to be incorporated into environmental impact statements (EIS) and that the impact determinations shall be considered in environmental assessments (EA), if the impacts of continued storage are relevant to the proposed action.

• Conforming changes are made to 10 CFR 51.30, 51.50, 51.53, 51.61, 51.75, 51.80, 51.95, and 51.97 to clarify that ISFSI license renewals, construction permits, and early site permits are included in the scope of the generic determination, improve readability, clarify that applicants do not need to address continued storage in their environmental reports, clarify that the NRC shall consider the impact determinations in certain EAs, and clarify that the impact determinations are deemed incorporated into EISs.

• In Table B–1 in appendix B of subpart A of 10 CFR part 51, ''Summary of Findings on NEPA Issues for License Renewal of Nuclear Power Plants,'' the ''Offsite radiological impacts of spent nuclear fuel and high-level waste disposal'' issue is reclassified as a Category 1 issue with no impact level assigned and the finding column entry is revised to address existing radiation standards.

• In Table B–1 in appendix B of subpart A of 10 CFR part 51, the finding column entry for the ''Onsite storage of spent nuclear fuel'' issue is revised to include the impacts during the license renewal term and the impacts from the continued storage period.

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I. Background

In the late 1970s, a number of environmental groups and States challenged the NRC regarding issues related to the storage and disposal of spent fuel. In 1977, the Commission denied a petition for rulemaking (PRM), PRM–50–18, filed by the Natural Resources Defense Council (NRDC) that asked the NRC to determine whether radioactive wastes generated in nuclear power reactors can be disposed of without undue risk to public health and safety and to refrain from granting pending or future requests for reactor operating licenses until the NRC made such a determination. The Commission stated in its denial that, as a matter of policy, it ''. . . would not continue to license reactors if it did not have reasonable confidence that the wastes can and will in due course be disposed of safely'' (42 FR 34391, 34393; July 5, 1977, pet. for rev. dismissed sub nom., *NRDC* v. *NRC,* 582 F.2d 166 (2d Cir. 1978)).

At about the same time, interested parties challenged license amendments that permitted expansion of the capacity of spent fuel pools at two nuclear power plants: Vermont Yankee and Prairie Island. In 1979, the U.S. Court of Appeals for the District of Columbia Circuit, in *Minnesota* v. *NRC,* 602 F.2d 412 (D.C. Cir. 1979), did not stay or vacate the license amendments, but remanded to the Commission the question of whether an offsite storage or disposal solution would be available for the spent fuel at the two facilities at the expiration of their licenses—at that time scheduled for 2007 and 2009–and, if not, whether the spent fuel could be stored safely at those reactor sites until an offsite solution became available.

In 1979, the NRC initiated a generic rulemaking proceeding that stemmed from these challenges and the Court's remand in *Minnesota* v. *NRC.* At that time, the purpose of the Waste Confidence rulemaking was to generically assess whether the Commission could have reasonable assurance that radioactive wastes produced by nuclear power plants ''can be safely disposed of, to determine when such disposal or offsite storage will be available, and to determine whether radioactive wastes can be safely stored onsite past the expiration of existing facility licenses until offsite disposal or storage is available'' (44 FR 61372, 61373; October 25, 1979). On August 31, 1984, the Commission published the Waste Confidence Decision (Decision) (49 FR 34658) and a final rule (49 FR 34688), codified at 10 CFR 51.23. This Decision provided an EA and Finding of No Significant Impact (FONSI) to support the rule. In the 1984 Decision the Commission made five findings (Findings):

1. The Commission finds reasonable assurance that safe disposal of radioactive waste and spent fuel in a mined geologic repository is technically feasible;

2. The Commission finds reasonable assurance that one or more mined geologic repositories for commercial high-level radioactive waste and spent fuel will be available by the years 2007—2009§ [1] and that sufficient repository capacity will be available within 30 years beyond the expiration of any reactor operating license to dispose of existing commercial high-level radioactive waste and spent fuel originating in such reactor and generated up to that time;

3. The Commission finds reasonable assurance that high-level radioactive waste and spent fuel will be managed in a safe manner until sufficient repository capacity is available to assure the safe disposal of all high-level radioactive waste and spent fuel;

4. The Commission finds reasonable assurance that, if necessary, spent fuel generated in any reactor can be stored safely and without significant environmental impacts for at least 30 years beyond the expiration of that reactor's operating license at that reactor's spent fuel storage basin or at either onsite or offsite ISFSIs; and

5. The Commission finds reasonable assurance that safe independent onsite or offsite spent fuel storage will be made available if such storage capacity is needed.

The rule, 10 CFR 51.23, codified the analysis in the Decision and found that for at least 30 years beyond the expiration of a reactor operating license, no significant environmental impacts would result from the storage of spent fuel and expressed the Commission's reasonable assurance that a repository was likely to be available by 2007–2009. The rule also stated that, as a result of this generic determination, the agency did not need to assess the site-specific impacts of continuing to store the spent fuel in either an onsite or offsite storage facility in new reactor licensing EISs or EAs beyond the expiration dates of reactor licenses (10 CFR 51.23(b)). The rulemaking also amended 10 CFR part 50, ''Domestic licensing of production and utilization facilities,'' to require operating nuclear power reactor licensees to submit their plans for managing spent fuel at their site until the fuel is transferred to the U.S. Department of Energy (DOE) for disposal (see 10 CFR 50.54(bb)).

The Commission conducted its first review of the Decision and rule in 1989–1990. This review resulted in the revision of the second and fourth Findings to reflect revised expectations for the date of availability of the first repository, and to clarify that the expiration of a reactor's licensed life for operation referred to the full 40-year initial license for operation and an

[1] The original dates by which the licenses for the facilities at issue in *Minnesota* v. *NRC,* 602 F.2d 412 (D.C. Cir. 1979) would have expired.

additional 30 years (which may include the term of a revised or renewed license). On September 18, 1990, the Commission published the revised Decision (55 FR 38474) and the associated final rule (55 FR 38472). The revised Findings 2 and 4 in the 1990 revised Decision were:

Finding 2: The Commission finds reasonable assurance that at least one mined geologic repository will be available within the first quarter of the twenty-first century, and sufficient repository capacity will be available within 30 years beyond the licensed life for operation (which may include the term of a revised or renewed license) of any reactor to dispose of the commercial high-level radioactive waste and spent fuel originating in such reactor and generated up until that time.

Finding 4: The Commission finds reasonable assurance that, if necessary, spent fuel generated at any reactor can be stored safely and without significant environmental impacts for at least 30 years beyond the licensed life for operation (which may include the term of a revised or renewed license) of that reactor at its spent fuel storage basin or at either onsite or offsite ISFSIs.

The Commission also amended 10 CFR 51.23(a) to reflect the revised timing of the availability of a geologic repository to the first quarter of the twenty-first century. The rule was also revised to reflect that the licensed life for operation may include the term of a revised or renewed license.

The Commission conducted its second review of the Decision and rule in 1999 and concluded that experience and developments after 1990 had confirmed the Findings and made a comprehensive reevaluation of the Decision and rule unnecessary (64 FR 68005; December 6, 1999).

In 2007, the NRC amended 10 CFR 51.23 to indicate that the generic determination provisions applied to combined licenses (72 FR 49352; August 28, 2007).

In 2008, the Commission decided to conduct its third review of the Decision and rule as part of an effort to enhance the efficiency of upcoming combined license application proceedings. The Commission determined that it would be more efficient to resolve certain combined-license-proceeding issues generically, including those related to Waste Confidence. This review resulted in a revision of the second and fourth Findings to reflect revised expectations for the date of availability of the first repository and that spent fuel can be stored safely for at least 60 years beyond the licensed life for operation.

In December 2010, the Commission published its revised Decision (75 FR 81032; December 23, 2010) and associated final rule (75 FR 81037; December 23, 2010). The revised Findings 2 and 4 in the 2010 Decision were:

Finding 2: The Commission finds reasonable assurance that sufficient mined geologic repository capacity will be available to dispose of the commercial high-level radioactive waste and spent fuel generated by any reactor when necessary.

Finding 4: The Commission finds reasonable assurance that, if necessary, spent fuel generated in any reactor can be stored safely and without significant environmental impacts for at least 60 years beyond the licensed life for operation (which may include the term of a revised or renewed license) of that reactor in a combination of storage in its spent fuel storage basin and either onsite or offsite ISFSIs.

Section 51.23(a) of 10 CFR was amended to reflect revised Findings 2 and 4. The changes reflected that spent fuel could be safely stored for at least 60 years beyond the licensed life for operation of a reactor and that sufficient mined geologic repository capacity would be available when necessary.

In response to the 2010 Decision and rule, the States of New York, New Jersey, Connecticut, and Vermont; several public interest groups; and the Prairie Island Indian Community filed a lawsuit in the U.S. Court of Appeals for the District of Columbia Circuit that challenged the Commission's compliance with NEPA. On June 8, 2012, the Court ruled that some aspects of the 2010 proceeding did not satisfy the NRC's NEPA obligations and vacated and remanded the Decision and rule (*New York* v. *NRC,* 681 F.3d 471 (D.C. Cir. 2012) (ADAMS Accession No. ML12191A407). The Court concluded that the Waste Confidence rulemaking is a major federal action necessitating either an EIS or an EA that results in a FONSI. In vacating the 2010 Decision and rule, the Court identified three specific deficiencies in the analysis:

1. Related to the Commission's conclusion that permanent disposal will be available ''when necessary,'' the Court held that the Commission needed to examine the environmental effects of failing to establish a repository;

2. Related to continued storage of spent fuel, the Court concluded that the Commission had not adequately examined the risk of spent fuel pool leaks in a forward-looking fashion; and

3. Also related to the continued storage of spent fuel, the Court concluded that the Commission had not adequately examined the consequences of potential spent fuel pool fires.

In response to the Court's decision, on August 7, 2012, the Commission stated in Commission Order CLI–12–16 (ADAMS Accession No. ML12220A094) that it would not issue reactor or ISFSI licenses dependent upon the Waste Confidence Decision and rule until the Court's remand is appropriately addressed. The Commission stated, however, that this determination extends only to final license issuance and that all licensing reviews and proceedings should continue to move forward.

In the September 6, 2012, Staff Requirements Memorandum (SRM), ''Staff Requirements—COMSECY–12–0016—Approach for Addressing Policy Issues Resulting from Court Decision to Vacate Waste Confidence Decision and Rule'' (ADAMS Accession No. ML12250A032), the Commission directed the staff to develop a generic EIS to support an updated Waste Confidence Decision and rule. In response, the NRC formed the Waste Confidence Directorate in the Office of Nuclear Material Safety and Safeguards (NMSS) to oversee the development of the generic EIS and an update that would replace the previous Waste Confidence Decision and rule.

II. Discussion

This discussion section has been divided into three subsections to better present information on the rule and the proceeding. Section A provides general information related to the proceeding. Section B provides information related to the rule changes. Lastly, Section C provides information on the technical feasibility and availability of safe storage and a repository. Sections A, B, and C present information in a question and answer format.

A. General Information

A1. What action is the NRC taking?

The NRC is issuing a rule to codify its generic determinations regarding the environmental impacts of continued storage of spent fuel at-reactor, or away-from-reactor sites beyond a reactor's licensed life for operation. The analysis in NUREG–2157, ''Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel'' (GEIS) (ADAMS Accession No. ML14196A105) provides a regulatory basis for the rule.

A2. What is the waste confidence proceeding?

Historically, the Commission's Waste Confidence proceeding represented the

Commission's generic determination and generic environmental analysis that spent fuel could be stored safely and without significant environmental impacts for a period of time past the licensed life for operation of a reactor. This generic environmental determination was reflected in 10 CFR 51.23, which addressed the NRC's NEPA obligations with respect to the continued storage of spent fuel.

This rule and GEIS represent a change in the format of the Commission's Waste Confidence proceeding. Because the Commission has prepared a generic EIS, which provides a detailed analysis of the environmental impacts associated with continued storage, it is no longer necessary to make a ''finding of no significant impact,'' or ''FONSI,'' as that term is used in NEPA. This final rule codifies the environmental impact determinations reflected in the GEIS. This is discussed in more detail in Question A.11.

A3. Why is the NRC doing this now?

On June 8, 2012, the U.S. Court of Appeals for the District of Columbia Circuit vacated the Commission's 2010 Waste Confidence rulemaking, and remanded the rulemaking to the NRC to address deficiencies related to the NRC's NEPA analysis. On September 6, 2012, the Commission instructed NRC staff to proceed with a generic EIS to analyze the environmental impacts of continued storage, address the issues raised in the Court's decision, and update the rule in accordance with the analysis in the EIS. The GEIS and this final rule implement the Commission's direction.

A4. Whom will this action affect?

This rule will affect any nuclear power reactor applicant and licensee seeking issuance or renewal of an operating license or construction permit for a nuclear power reactor under 10 CFR parts 50 or 54, ''Requirements for renewal of operating licenses for nuclear power plants;'' issuance of a combined license or early site permit for a nuclear power reactor under 10 CFR part 52, ''Licenses, certifications, and approvals for nuclear power plants;'' or some amendments of a license under 10 CFR parts 50 or 52. This rule will also affect the issuance of an initial, amended, or renewed license for storage of spent fuel at an ISFSI under 10 CFR part 72, ''Licensing requirements for the independent storage of spent nuclear fuel, high-level radioactive waste, and reactor-related greater than Class C waste.'' The rule could also affect participants in any proceeding addressing these licensing actions.

A5. How can the NRC conduct a generic review when spent fuel is stored at specific sites?

Since 1984, the NRC has generically addressed the environmental impacts of continued storage though a generic NEPA analysis and rule. Without a generic environmental impact analysis, site-specific consideration of the environmental impacts of continued storage would be necessary. In remanding the 2010 Waste Confidence rule to the NRC for additional analysis, the Court of Appeals for the District of Columbia Circuit continued the long history of federal courts approving a generic approach to the analysis of the environmental impacts of nuclear power reactor operation. In *New York* v. *NRC,* the Court of Appeals endorsed the NRC's generic approach, stating that there is ''no reason that a comprehensive general analysis would be insufficient to examine on-site risks that are essentially common to all plants.'' (New York, 681 F.3d at 480). After conducting the analysis in the GEIS, the NRC concludes that the impacts of continued storage will not vary significantly across sites, despite variations in site-specific characteristics. Accordingly, the NRC believes that a generic approach is appropriate for this proceeding.

The NRC has determined in the GEIS that the direct and indirect environmental impacts of continued storage at reactors can be analyzed generically. This means that, for each of the resource areas analyzed in the GEIS, the NRC has reached a generic determination (SMALL, MODERATE, LARGE, or a range) that is appropriate for all sites. As discussed in the GEIS, these impact determinations are not expected to differ from those that would result from individual site-specific reviews for the continued storage period.

The NRC's evaluation of the environmental impacts of continued storage builds upon substantial operating experience over the licensed life of the reactor. The environmental impacts associated with spent fuel storage during the licensed life for operation are addressed during the NRC's review of license applications and license renewal applications. The environmental impacts associated with spent fuel storage in an at-reactor ISFSI during the licensed life for operation of a reactor are addressed through the 1989 environmental assessment supporting the final rule for 10 CFR part 72 general licenses, in the environmental assessments prepared to support rules approving Certificates of Compliance for dry cask systems, in a site-specific environmental assessment for specifically licensed ISFSIs, or during the NRC's review of license renewal applications. Site-specific analyses capture the characteristics that most obviously vary from site to site, such as seismic activity, land use, ecosystem, and local population variations. During operation, facility operators and the NRC gain significant additional experience with site-specific issues, including those related to issues of site configuration and maintenance history. During the licensed life of a facility, many factors ensure that operational impacts, including those from accidents or off-normal releases, are within regulatory limits at any given site. These factors include the plant's operating experience, licensee compliance with NRC regulations, site-specific mitigation and controls informed by the licensing reviews, and ongoing regulatory oversight and enforcement actions. In the continued storage period, many of the environmental impacts related to storage of spent fuel are not expected to vary beyond the range experienced during operations. Changes in the environment during the continued storage periods examined in the GEIS are expected to be gradual and predictable. There are inherent uncertainties in determining impacts for the long-term and indefinite timeframes, and, with respect to some resource areas, those uncertainties could result in impacts that, although unlikely, could be larger than those that are to be expected at most sites and have therefore been presented as ranges rather than as a single impact level. Those uncertainties exist, however, regardless of whether the impacts are analyzed generically or site-specifically. Despite variations in site-specific characteristics, a generic analysis is capable of determining and expressing the environmental impacts that may result from continued storage.

The reasonableness of NRC's determinations about continued storage is supported by numerous environmental reviews of spent fuel storage. Spent fuel storage during the period of operations has been considered in site-specific licensing of new reactors (for spent fuel pools only), ISFSIs, and license renewals. Finally, concerned parties who meet the waiver criteria in 10 CFR 2.335 will be able to raise site-specific issues related to continued storage at the time of a specific license application.

A6. What types of wastes are addressed by the GEIS and rule?

The environmental analysis in the GEIS and the rule covers low and high burn-up spent fuel generated in light-water nuclear power reactors. It also covers mixed oxide (MOX) fuel,[2] since MOX fuel is substantially similar to existing light-water reactor fuel and is, in fact, being considered for use in existing light-water reactors in the United States. It also covers spent fuel from small modular light-water reactors. Small modular light-water reactors being developed will use fuel very similar in form and materials to the existing operating reactors and will not, therefore, introduce new technical challenges to the storage of spent fuel. The environmental analysis in the GEIS also covers the spent fuel from one high-temperature gas-cooled reactor (HTGR) built and commercially operated: Fort Saint Vrain.

A7. What activities are not covered by the GEIS and rule?

The GEIS and rule do not consider disposal of spent fuel or storage of spent fuel during the licensed life for operation of the power reactor. Additionally, the GEIS and rule do not address foreign spent fuel, non-power reactor spent fuel (e.g., fuel from research and test reactors), defense waste, Greater-than-Class C low-level waste, reprocessing of commercial spent fuel, or the need for nuclear power (see also question A9).

A8. How does this rulemaking relate to the licensing of future away-from-reactor ISFSIs?

The GEIS and rule do not satisfy the NRC's obligations under NEPA to analyze the environmental impacts of spent fuel storage during the term of a facility's license. The NRC must conduct a site-specific environmental analysis to support the licensing of any future away-from-reactor ISFSI. The NRC cannot use the rule and GEIS as a substitute for the environmental analysis associated with constructing and operating an away-from-reactor ISFSI. The site-specific NEPA analysis for an away-from-reactor ISFSI can only rely on the analysis in the GEIS and the requirements in the rule to satisfy the NRC's NEPA obligations with respect to the storage of spent fuel during the applicable continued storage period.

[2] Mixed oxide fuel (often called MOX fuel) is a type of nuclear power reactor fuel that contains plutonium oxide mixed with either natural or depleted uranium oxide in ceramic pellet form.

A9. Will the rulemaking authorize the storage of spent fuel at the operating reactor site near me?

No, the rule does not authorize the storage of spent fuel at any site. The rule reflects only the generic environmental analysis for the period of spent fuel storage beyond a reactor's licensed life for operation and before disposal in a repository. This proceeding is not a substitute for licensing actions that typically include site-specific NEPA analysis and site-specific safety analyses (see also question A10).

In addition, the NRC's GEIS and final rule do not pre-approve any particular waste storage or disposal site technology, nor do they require that a specific cask design be used for storage. Individual licensees and applicants, including any applicant for a high-level radioactive waste repository, are required to have a license from the NRC before storing or disposing of any spent fuel. Separately, every 10 CFR part 50 or part 52 nuclear power reactor licensee, by virtue of 10 CFR part 72, subpart K, has a general license authorizing storage of spent fuel in cask designs that are approved by the NRC.

A10. How will the rule and GEIS be used in site-specific licensing actions?

The rule, which adopts the generic impact determinations regarding continued storage from the GEIS, satisfies the NRC's NEPA obligations with respect to continued storage for initial, renewed, and amended licenses for reactors and ISFSIs, as well as for construction permits and early site permits. The rule does not satisfy the NRC's obligation to assess the environmental impacts of spent fuel storage during a facility's licensed life for operation. The impacts of storage during a proposed license term at a specific site, as distinct from the timeframes of continued storage covered by the rule, would be subject to the safety and environmental review as part of other licensing reviews.

The GEIS (NUREG–2157) only satisfies a portion of the NRC's NEPA obligations related to the issuance of a reactor or spent fuel storage facility license by generically evaluating the environmental impacts of continued storage. These generic determinations will not be revisited and may not be challenged in individual licensing proceedings without the grant of a waiver under 10 CFR 2.335. Taken together, the GEIS, the site-specific environmental review, and other applicable environmental reviews will provide the decision-maker in a licensing proceeding with a complete environmental analysis of the impacts associated with spent fuel storage prior to disposal in a geologic repository.

Under final 10 CFR 51.23, the impact determinations in NUREG–2157 are deemed incorporated into an EIS that is prepared to support a licensing action for a power reactor or ISFSI. For a licensing action supported by an EA, the NRC will consider the impact determinations in NUREG–2157 in the EA, if the impacts of continued storage of spent fuel are relevant to the proposed action. This means that NUREG–2157 provides the determinations of the environmental impacts of continued storage to be used in site-specific environmental reviews. No additional analysis of the impacts of continued storage is required.

The findings of the site-specific environmental review may be challenged during the initial licensing of a facility and at license renewal. As a result of this rulemaking, what may not be considered in those proceedings—due to the generic determination in 10 CFR 51.23(a)—are the environmental impacts of continued storage of spent fuel beyond the licensed life for operation of the reactor contained in NUREG–2157. The NRC's regulations at 10 CFR 2.335, however, allow participants in NRC's licensing proceedings to request that a rule, including 10 CFR 51.23, not be applied, or be waived, in a particular proceeding because special circumstances are present that would prevent the application of the rule from satisfying the purpose of the rule.

The GEIS and rule are applicable only to future NRC licensing actions and do not apply to completed licensing actions.

A11. Why is there not a separate waste confidence decision document?

Historically, the Waste Confidence Decision contained five ''Findings'' that addressed the technical feasibility of a mined geologic repository, the degree of assurance that disposal would be available by a certain time, and the degree of assurance that spent fuel and high-level waste could be managed safely without significant environmental impacts for a certain period beyond the expiration of plants' operating licenses. Preparation of and reliance upon a GEIS is a fundamental departure from the approach used in past proceedings. The GEIS acknowledges the uncertainties inherent in a prediction of repository availability and provides an environmental analysis of three timeframes, including one where a repository does not become available. The relationship between the prior

''Findings'' and the technical feasibility analyses in the current GEIS is discussed in greater detail in Section D.2.4.1. As noted in the GEIS, the former ''Findings'' were outputs of previous Waste Confidence proceedings, which included an environmental assessment and finding of no significant impact. In contrast, the current GEIS provides a detailed analysis under NEPA and provides an analysis of specific impacts.

To support the analysis in the GEIS and the rule, the underlying assumptions in the GEIS address the issues assessed in the previous five ''Findings'' as conclusions regarding the technical feasibility and availability of a repository and conclusions regarding the technical feasibility of safely storing spent fuel in an at-reactor or away-from-reactor storage facility. The issue of the technical feasibility of a geologic repository was historically addressed in Finding 1 and is now discussed in Section B.2.1 of the GEIS and the availability of a repository was addressed in Finding 2 and is now discussed in Section B.2.2. The regulatory framework for spent fuel storage was previously addressed in Findings 3 and 5 and is now addressed in Section B.3.3. The safe storage of spent fuel pending ultimate disposal at a repository was previously addressed in Finding 4 and is now addressed in Sections B.3.1 and B.3.2. Thus, the GEIS fulfills the NRC's NEPA obligations for analyzing the environmental impacts of continued storage in a more traditional NEPA format.

A12. What is the status of the extended storage effort?

The extended storage effort is an activity that is separate from this proceeding and that focuses on technical and regulatory considerations for the continued effective regulation of spent fuel storage and subsequent transportation over extended periods (up to 300 years). Presently, the NRC believes that the existing regulatory framework used to renew current licenses can be extended to regulate the management of spent fuel for multiple renewal periods. The staff is examining technical areas associated with multiple renewals of fixed-term, dry storage licenses and certificates to address age-related degradation of dry cask storage systems, structures, and components. The NRC acknowledges that current licensing practices may evolve over time in response to improved understanding, operational experience, and Commission policy direction. As technical, regulatory, and policy issues are resolved, the NRC will revise guidance and staff qualification and training accordingly. Completion of the Extended Storage effort is planned for the end of the decade. The NRC will evaluate any new information that is developed during the Extended Storage effort to determine whether it is necessary to update the GEIS or 10 CFR 51.23.

A13. How can the NRC proceed with this rulemaking while research on the extended storage of spent fuel is ongoing?

Development of the GEIS and the NRC's ongoing research are two separate efforts that are not dependent on each other. This rulemaking updates the NRC's environmental rules in 10 CFR part 51. The GEIS, NUREG–2157, which was prepared to satisfy the NRC's NEPA obligations, provides a regulatory basis for the rule. Under NEPA, an EIS, such as the one prepared to support this rulemaking, need only consider currently available information. As the Commission recently stated, ''NEPA requires that we conduct our environmental review with the best information available today. It does not require that we wait until inchoate information matures into something that later might affect our review.'' (*Luminant Generation Co. LLC* (Comanche Peak Nuclear Power Plant, Units 3 and 4), et al., CLI–12–7, 75 NRC 379, 391–92 (2012)). Further, the United States Court of Appeals for the District of Columbia Circuit explained that ''creating [the agency's] models with the best information available when it began its analysis and then checking the assumptions of those models as new information became available, was a reasonable means of balancing competing considerations, particularly given the many months required to conduct full modeling with new data.'' (*Village of Bensenville* v. *Federal Aviation Administration,* 457 F.3d 52, 71–72 (D.C. Cir. 2006)). The United States Supreme Court held that ''an agency need not supplement an EIS every time new information comes to light after the EIS is finalized. To require otherwise would render agency decision making intractable, always awaiting updated information only to find the new information outdated by the time a decision is made.'' (*Marsh* v. *Oregon Natural Resources Council,* 490 U.S. 360, 374 (1989)).

In the GEIS, the NRC has concluded that sufficient information exists to perform an analysis of continued storage impacts for the three timeframes analyzed. Nonetheless, the NRC continues to identify and resolve potential issues associated with the storage and transportation of spent fuel for periods beyond an ISFSI's initial licensing and first renewal. The ongoing research into the extended storage of spent fuel is part of the NRC's effort to continuously evaluate and update its safety regulations. The NRC is not aware of any deficiencies in its current regulations that would challenge the continued safe storage of spent fuel in spent fuel pools or dry cask systems.

If, at some time in the future, the NRC were to identify a concern with the safe storage of spent fuel, the NRC would evaluate the issue and take whatever action or make whatever change in its regulatory program necessary to protect public health and safety. The NRC will continue to monitor the ongoing research into spent fuel storage. When warranted by significant events that may call into question the appropriateness of the rule, the NRC will review the GEIS and rule to determine if revisions are necessary.

A14. How frequently does the NRC plan to revisit the GEIS and rule?

The Commission has reviewed the rule and supporting analysis four times since 1984; in 1990, 1999, 2010, and now in 2014. The NRC does not have a schedule for revisiting the GEIS and rule after this current update. The NRC will review the GEIS and rule for possible revision when warranted by significant events that may call into question the appropriateness of the rule.

B. Rulemaking

B1. What is the purpose of this rulemaking?

Historically, the NRC and license applicants have relied on 10 CFR 51.23 to conclusively address the environmental impacts of continued storage in environmental reports, EISs, and EAs. The NRC's use of 10 CFR 51.23 to satisfy its NEPA obligations with respect to continued storage will enhance efficiency in individual licensing reviews by incorporating the determinations from the generic analysis of the environmental impacts of continued storage into environmental impact statements that need to address continued storage. For EAs that need to address continued storage, the NRC will consider the environmental impacts of continued storage, as provided in 10 CFR 51.23. Having confirmed that the environmental impacts of continued storage can be analyzed generically, the Commission has decided to codify the GEIS impact determinations in a revised rule, 10 CFR 51.23. Because the impacts of continued storage have been generically assessed in the GEIS, NEPA

analyses for relevant future reactor and spent fuel storage facility licensing actions will not need to separately determine the environmental impacts of continued storage. The analysis in the GEIS constitutes a regulatory basis for the rule at 10 CFR 51.23.

Part of the environmental analysis for a nuclear power reactor or storage facility license includes a review of the impacts caused by the spent fuel generated in the reactor. That analysis must assess the impacts of the spent fuel from generation through disposal. As codified, the impact determinations in the GEIS will inform the decision-makers in licensing proceedings of the reasonably foreseeable environmental impacts of continued storage. These determinations will be weighed along with other impacts determined by the NRC on a site-specific basis for the facility or an activity. Thus, in the course of an individual licensing proceeding, the decision-maker will be able to compare all the environmental impacts of a proposed licensing action (e.g., licensing a nuclear power reactor), including continued storage impacts, to the environmental impacts of reasonable alternatives, including the no-action alternative.

B2. What is meant by the phrase ''licensed life for operation of a reactor''?

The phrase ''licensed life for operation of a reactor'' refers to the term of the license to operate a reactor. The GEIS assumes an original licensed life of 40 years and up to two 20-year license extensions [3] for each reactor, for a total of up to 80 years of operation. The phrase, ''beyond licensed life for operation of a reactor,'' refers to the period beyond the initial license term to operate a reactor and, if the license is extended, beyond the renewed license term. The date of permanent cessation of operations (shut down) does not necessarily mark the transition to ''beyond licensed life for operation.'' Because the continued storage analysis informs the larger NEPA analysis that occurs before a license is issued, even if a reactor is shut down years before the end of its initial or extended license term, ''licensed life for operation'' continues to refer to the initial or renewed license term, and not the actual operational period of a reactor. The environmental analysis supporting spent fuel storage during the licensed life for operation of each reactor covers the full period for which the license or license renewal was issued, even if operation of the reactor ended before the license expired. Thus, continued storage begins at the end of the licensed life for operation of a reactor. The starting point for continued storage does not depend on whether the spent fuel is stored in a spent fuel pool, dry casks under a general license, or dry casks under a specific license.

B3. What timeframes are considered in the GEIS?

The NRC has analyzed three timeframes in the GEIS that represent various scenarios for the length of continued storage that may be needed before spent fuel is sent to a repository. The first timeframe is the short-term timeframe, which analyzes 60 years of continued storage after the end of a reactor's licensed life for operation. The NRC considers the short-term timeframe to be the most likely scenario for continued storage; and the GEIS assumes that a repository would become available by the end of the short-term timeframe. The GEIS also analyzed two additional timeframes: Long-term and indefinite. The long-term timeframe considers the environmental impacts of continued storage for 160 years after the end of a reactor's licensed life for operation. Finally, the GEIS includes an analysis of an indefinite timeframe, which assumes that a repository never becomes available.

By the end of the short-term timeframe, some spent fuel could be between 100 and 140 years old. Short-term storage of spent fuel includes the following:

- Continued storage of spent fuel in spent fuel pools (at-reactor only) and ISFSIs;
- Routine maintenance of spent fuel pools and ISFSIs (e.g., maintenance of concrete pads); and
- Handling and transfer of spent fuel from spent fuel pools to ISFSIs (all spent fuel is assumed to be removed from the spent fuel pool by the end of the short-term timeframe).

Long-term storage is continued storage of spent fuel for an additional 100 years after the short-term timeframe for a total of 160 years beyond the licensed life for operation of a reactor. The GEIS assumes that all spent fuel has been transferred from the spent fuel pool to an ISFSI by the end of the short-term period. The GEIS also assumes that a repository would become available by the end of the long-term timeframe. By the end of the long-term timeframe, some spent fuel could be between 200 and 240 years old. Long-term storage activities include the following:

- Continued storage of spent fuel in ISFSIs, including routine maintenance;
- One time replacement of ISFSIs and spent fuel canisters and casks; and
- Construction, operation, and one replacement of a dry transfer system (DTS).

The third timeframe analyzed by the GEIS is the indefinite timeframe, which assumes that a repository does not become available. The Commission does not believe that this scenario is likely to occur, but its inclusion in the analysis allows the NRC to fully analyze the environmental impacts associated with continued storage. The activities during the indefinite timeframe are the same as those that would occur for the long-term timeframe; however, without a repository the replacement activities would occur every 100 years.

B4. What are the key assumptions used in the GEIS?

To guide its analysis, the NRC relied upon certain assumptions regarding storage of spent fuel. A detailed discussion of these assumptions is contained in Section 1.8.3 of the GEIS. Key assumptions used in the GEIS include, but are not limited to the following:

- Institutional controls, including the continued regulation of spent fuel, will continue.
- Spent fuel canisters and casks would be replaced approximately once every 100 years.
- A DTS would be built at each ISFSI location for fuel repackaging and the ISFSIs and DTS facilities would be replaced approximately once every 100 years.
- All spent fuel would be removed from spent fuel pools to dry storage by the end of the short-term timeframe (60 years after licensed life).
- An ISFSI of sufficient size to hold all spent fuel generated during licensed life for operation will be constructed before the end of the reactor's licensed life for operation.
- In accordance with NEPA, the NRC's analysis in the GEIS is based on current technology and regulations.

B5. How will significant changes in these assumptions be addressed under the NRC's regulatory framework?

The NRC has historically reviewed the rule as the policy and technological foundations for spent fuel storage and disposal have evolved. Technological changes that might require revisiting the assumptions, such as revisions to the NRC's safety regulations that allow or require a shorter or longer period of

[3] The Commission's regulations provide that renewed operating licenses may be subsequently renewed, although no licensee has yet submitted an application for such a subsequent renewal. The GEIS assumes two renewals in evaluating potential environmental impacts.

time before repackaging, are not likely to affect the overall conclusions in the GEIS that provide a regulatory basis for the rule and, accordingly, every future change in the assumptions underlying the GEIS would not necessarily justify an update to the rule. These technological changes could require licensees to amend their licenses, which would be accompanied by site-specific safety and environmental reviews related to the specific amendments. The NRC will continue to monitor changes in national policy and developments in spent fuel storage and disposal technology. When warranted by significant events that may call into question the appropriateness of the rule, the NRC will review the GEIS and rule to determine if revisions are necessary.

B6. What is the significance of the levels of impact in the GEIS (SMALL, MODERATE, LARGE)?

The NRC describes the affected environment in terms of resource areas: land use, socioeconomics, environmental justice, air quality, climate change, geology and soils, surface water, groundwater, terrestrial resources, aquatic ecology, special status species and habitats, historic and cultural resources, noise, aesthetics, waste management, transportation, and public and occupational health. The GEIS contains analyses of the environmental impacts associated with each resource area. Additionally, the GEIS considers the impacts on resource areas caused by postulated acts of terrorism and accidents. The significance of the magnitude of the impact for most of the resource areas evaluated is expressed as SMALL, MODERATE, or LARGE. The general definitions of significance levels are:

SMALL: The environmental effects are not detectable or are so minor that they will neither destabilize nor noticeably alter any important attribute of the resource. For the purposes of assessing radiological impacts, the Commission has concluded that radiological impacts that do not exceed permissible levels in the Commission's regulations are considered small.

MODERATE: The environmental effects are sufficient to alter noticeably, but not to destabilize, important attributes of the resource.

LARGE: The environmental effects are clearly noticeable and are sufficient to destabilize important attributes of the resource.

The GEIS discussion of each resource area includes an explanation of how the significance category was determined. For issues in which the significance determination is based on risk (i.e., the probability of occurrence as well as the potential consequences), the probability of occurrence as well as the potential consequences have been factored into the determination of significance. For some resource areas, the impact determination language is specific to the authorizing regulation, executive order, or guidance.

B7. What are the environmental impacts of at-reactor continued storage?

The environmental impacts of continued storage are analyzed in the GEIS. The GEIS contains a detailed analysis of the impacts for short-term storage, long-term storage, and indefinite storage. The analysis considers both at-reactor storage and away-from-reactor storage.[4] Impacts attributable to at-reactor storage are addressed here and the impacts from away-from-reactor storage are addressed in question B8.

For at-reactor storage, the unavoidable adverse environmental impacts for each resource area are SMALL for all timeframes with the exception of waste management impacts, which are SMALL to MODERATE for the indefinite storage timeframe, and historic and cultural resource impacts, which are SMALL to LARGE for the long-term and indefinite storage timeframes. These elevated impact conclusions are influenced, in part, by the uncertainties regarding the specific circumstances of continued storage over long timeframes, including site-specific characteristics that could affect the intensity of potential environmental impacts, and the resulting analysis assumptions that have been made by the NRC as documented in detail in Chapter 4 of the GEIS. The MODERATE waste-management impacts are associated with the volume of nonhazardous solid waste generated by assumed facility replacement activities for the indefinite timeframe. The historic and cultural resource impacts would range from SMALL to LARGE for the long-term and indefinite timeframes. This range takes into consideration routine maintenance and monitoring (i.e., no ground-disturbing activities), the absence or avoidance of historic and cultural resources, and potential ground-disturbing activities that could impact historic and cultural resources. In addition, the analysis considers uncertainties inherent in analyzing this resource area over long timeframes. These uncertainties include any future discovery of previously unknown historic and cultural resources; resources that gain significance within the vicinity and the viewshed (e.g., nomination of a historic district) due to improvements in knowledge, technology, and excavation techniques; and changes associated with predicting resources that future generations will consider significant. A SMALL impact would occur if replacement activities occur in previously disturbed areas, there are no historic or cultural resources present, or if historical and cultural resources can be avoided. A potential MODERATE or LARGE impact would result if historic and cultural resources are present at a site and, because they cannot be avoided, are impacted by ground-disturbing activities during the long-term or indefinite timeframe.

For some resource areas, the impact determination language is specific to the authorizing regulation, executive order, or guidance. For special status species, continued storage impacts would be determined as part of an Endangered Species Act consultation and the Magnuson-Stevens Fishery Conservation and Management Act. Continued at-reactor storage is not expected to cause disproportionately high and adverse human health and environmental effects on minority and low-income populations. In addition, as indicated in the Commission's policy statement, environmental justice impacts would be considered during site-specific environmental reviews for specific licensing actions.

Table 1 provides a summary of the environmental impacts of continued at-reactor storage. Detailed discussion for each resource area can be found in Chapter 4 of the GEIS. Cumulative impacts are addressed in Chapter 6 of the GEIS. Chapter 8 of the GEIS provides a summary of the impacts.

[4] For the purposes of the GEIS impact analysis, the GEH-Morris facility and the DOE TMI–2 ISFSI at Idaho Falls, Idaho were considered under the at-reactor storage evaluation.

TABLE 1—ENVIRONMENTAL IMPACTS OF AT-REACTOR CONTINUED STORAGE OF SPENT FUEL

Resource area	Short-term storage	Long-term storage	Indefinite storage
Land Use	SMALL	SMALL	SMALL.
Socioeconomics	SMALL	SMALL	SMALL.
Environmental Justice	Disproportionately high and adverse impacts are not expected.		
Air Quality:			
Air Emissions	SMALL	SMALL	SMALL.
Thermal Release	SMALL	SMALL	SMALL.
Climate Change	SMALL	SMALL	SMALL.
Geology and Soils	SMALL	SMALL	SMALL.
Surface Water:			
Quality	SMALL	SMALL	SMALL.
Consumptive Use	SMALL	SMALL	SMALL.
Groundwater:			
Quality	SMALL	SMALL	SMALL.
Consumptive Use	SMALL	SMALL	SMALL.
Terrestrial Resources	SMALL	SMALL	SMALL.
Aquatic Ecology	SMALL	SMALL	SMALL.
Special Status Species and Habitats.	Impacts for Federally threatened and endangered species and Essential Fish Habitat would be determined as part of consultations for the Endangered Species Act and Magnuson-Stevens Fishery Conservation and Management Act.		
Historic and Cultural Resources	SMALL	SMALL to LARGE	SMALL to LARGE.
Noise	SMALL	SMALL	SMALL.
Aesthetics	SMALL	SMALL	SMALL.
Waste Management:			
LLW	SMALL	SMALL	SMALL.
Mixed Waste	SMALL	SMALL	SMALL.
Nonradioactive Waste	SMALL	SMALL	SMALL to MODERATE.
Transportation:			
Traffic	SMALL	SMALL	SMALL.
Health impacts	SMALL	SMALL	SMALL.
Public and Occupational Health	SMALL	SMALL	SMALL.
Accidents	SMALL	SMALL	SMALL.
Sabotage or Terrorism	SMALL	SMALL	SMALL.

B8. What are the environmental impacts of away-from-reactor continued storage?

The away-from-reactor environmental impacts analyzed in the GEIS include the impacts from constructing the ISFSI. Although an away-from-reactor ISFSI would be subject to a site-specific licensing review that includes an EIS that would assess the environmental impacts due to construction, the impacts due to construction are included in the GEIS due to the potential for that construction to occur during the timeframes analyzed in the GEIS. Inclusion of the away-from-reactor ISFSI in the GEIS does not mean that the NRC is proposing an interim or consolidated storage facility.

For away-from-reactor storage, the unavoidable adverse environmental impacts for each resource area is SMALL except for air quality, terrestrial ecology, aesthetics, waste management, and transportation where the impacts are SMALL to MODERATE. Socioeconomic impacts range from SMALL (adverse) to LARGE (beneficial) and historic and cultural resource impacts could be SMALL to LARGE. The potential MODERATE impacts on air quality, terrestrial wildlife, and transportation are based on potential construction-related fugitive dust emissions, terrestrial wildlife direct and indirect mortalities, terrestrial habitat loss, and temporary construction traffic impacts. The potential MODERATE impacts on aesthetics and waste management are based on noticeable changes to the viewshed from constructing a new away-from-reactor ISFSI, and the volume of nonhazardous solid waste generated by assumed ISFSI and DTS replacement activities for the indefinite timeframe. The potential LARGE (beneficial) impacts on socioeconomics are due to local economic tax revenue increases from an away-from-reactor ISFSI. The potential impacts to historic and cultural resources during the short-term storage timeframes would range from SMALL to LARGE. The magnitude of adverse effects on historic properties and impacts on historic and cultural resources largely depends on where facilities are sited, what resources are present, the extent of proposed land disturbance, whether the area has been previously surveyed to identify historic and cultural resources, and if the licensee has management plans and procedures that are protective of historic and cultural resources. Even a small amount of ground disturbance (e.g., clearing and grading) could affect a small but significant resource. In most instances, placement of storage facilities on the site can be adjusted to minimize or avoid impacts on any historic and cultural resources in the area. However, the NRC recognizes that this is not always possible. The NRC's site-specific environmental review and compliance with the National Historic Preservation Act (NHPA) process could identify historic properties, identify adverse effects, and potentially resolve adverse effects on historic properties and impacts on other historic and cultural resources. Under the NHPA, mitigation does not eliminate a finding of adverse effect on historic properties. The potential impacts to historic and cultural resources during the long-term and indefinite storage timeframes would range from SMALL to LARGE. This range takes into consideration routine maintenance and monitoring (i.e., no

ground-disturbing activities), the absence or avoidance of historic and cultural resources, and potential ground-disturbing activities that could affect historic and cultural resources. The analysis also considers uncertainties inherent in analyzing this resource area over long timeframes. These uncertainties include any future discovery of previously unknown historic and cultural resources; resources that gain significance within the vicinity and the viewshed (e.g., nomination of a historic district) due to improvements in knowledge, technology, and excavation techniques and changes associated with predicting resources that future generations will consider significant. If construction of a DTS and replacement of the ISFSI and DTS occurs in an area with no historic or cultural resource present or construction occurs in a previously disturbed area that allows avoidance of historic and cultural resources then impacts would be SMALL. By contrast, a MODERATE or LARGE impact could result if historic and cultural resources are present at a site and, because they cannot be avoided, are impacted by ground-disturbing activities during the long-term and indefinite timeframes.

Impacts on Federally listed species, designated critical habitat, and essential fish habitat would be based on site-specific conditions and determined as part of consultations required by the Endangered Species Act and the Magnuson-Stevens Fishery Conservation and Management Act. Continued storage at an away-from-reactor ISFSI is not expected to cause disproportionately high and adverse human health and environmental effects on minority and low-income populations. In addition, as indicated in the Commission's policy statement, should the NRC receive an application for a proposed away-from-reactor ISFSI, a site-specific NEPA analysis would be conducted, and this analysis would include consideration of environmental justice impacts.

Table 2 provides a summary of the environmental impacts of away-from-reactor continued storage. Detailed discussion for each resource area can be found in Chapter 5 of the GEIS. Cumulative impacts are addressed in Chapter 6 of the GEIS. Chapter 8 of the GEIS provides a summary of the impacts.

TABLE 2—ENVIRONMENTAL IMPACTS OF AWAY-FROM REACTOR CONTINUED STORAGE OF SPENT FUEL

Resource area	Short-term storage	Long-term storage	Indefinite storage
Land Use	SMALL	SMALL	SMALL
Socioeconomics	SMALL (adverse) to LARGE (beneficial).	SMALL (adverse) to LARGE (beneficial).	SMALL (adverse) to LARGE (beneficial).
Environmental Justice	Disproportionately high and adverse impacts are not expected.		
Air Quality	SMALL to MODERATE	SMALL	SMALL.
Climate Change	SMALL	SMALL	SMALL.
Geology and Soils	SMALL	SMALL	SMALL.
Surface Water:			
Quality	SMALL	SMALL	SMALL.
Consumptive Use	SMALL	SMALL	SMALL.
Groundwater:			
Quality	SMALL	SMALL	SMALL.
Consumptive Use	SMALL	SMALL	SMALL.
Terrestrial Resources	SMALL to MODERATE	SMALL	SMALL.
Aquatic Ecology	SMALL	SMALL	SMALL.
Special Status Species and Habitats.	Impacts for Federally threatened and endangered species and Essential Fish Habitat would be determined as part of consultations for the Endangered Species Act and Magnuson-Stevens Fishery Conservation and Management Act.		
Historic and Cultural Resources	SMALL to LARGE	SMALL to LARGE	SMALL to LARGE.
Noise	SMALL	SMALL	SMALL.
Aesthetics	SMALL to MODERATE	SMALL to MODERATE	SMALL to MODERATE.
Waste Management:			
LLW	SMALL	SMALL	SMALL.
Mixed Waste	SMALL	SMALL	SMALL.
Nonradioactive Waste	SMALL	SMALL	SMALL to MODERATE.
Transportation:			
Traffic	SMALL to MODERATE	SMALL to MODERATE	SMALL to MODERATE.
Health	SMALL	SMALL	SMALL.
Public and Occupational Health	SMALL	SMALL	SMALL.
Accidents	SMALL	SMALL	SMALL.
Sabotage or Terrorism	SMALL	SMALL	SMALL.

B9. Does a potentially LARGE impact or a range of impacts affect the generic determination in the GEIS?

No, the generic determinations found in the GEIS are not affected by a potentially LARGE impact or a range of impacts. The NRC has determined in the GEIS that the direct and indirect environmental impacts of continued storage can be analyzed generically. This means that, for each of the resource areas analyzed in the GEIS, the NRC has reached a generic determination (SMALL, MODERATE, LARGE, or a range) that is appropriate for all sites. These impact determinations are not expected to differ from those that would result from individual site-specific reviews for the continued storage period. There are inherent uncertainties in determining impacts for the long-term and indefinite timeframes, regardless of whether the impacts are analyzed generically or site-specifically. Because the impacts of continued storage are not expected to vary significantly across sites, despite

variations in site-specific characteristics, a generic analysis is appropriate to determine the reasonably foreseeable environmental impacts that may result from continued storage.

B10. How does the rule address the impacts from continued storage of spent fuel?

The NRC is revising 10 CFR 51.23(a) to reflect the environmental impact determinations of the GEIS (NUREG–2157). Final 10 CFR 51.23(a) provides that the Commission has generically determined that the environmental impacts of continued storage of spent nuclear fuel beyond the licensed life for operation of a reactor are those impacts identified in NUREG–2157. The NRC will use the impact determinations in NUREG–2157 to inform the decision-makers in licensing proceedings of the impacts of continued storage.

B11. What clarifying changes are addressed in the rule?

Paragraph (b) of 10 CFR 51.23 is revised to clarify that ISFSI license renewals, reactor construction permits, and early site permits are included in the scope of the generic determination in 51.23(a). Additionally, paragraph (b) is revised for readability by restructuring the paragraph and separating the requirements that apply to an applicant from those that apply to the NRC. This paragraph is also revised to provide additional clarity regarding how the generic determination in 10 CFR 51.23(a) will be implemented in future NRC NEPA reviews. These amendments to 10 CFR 51.23(b) are intended to clarify how the NRC has interpreted and implemented 10 CFR 51.23 and how it will do so in future licensing activities. The approach taken for an EA differs slightly from the approach for EISs because under the terms of the revised 10 CFR 51.23 an EA must consider the impact determinations from the GEIS, while for an EIS the impact determinations are deemed incorporated into the EIS. Consistent with current practice, applicants will not be required to address continued storage in environmental reports submitted to support applications for issuance, renewal, or amendment of an operating license or construction permit for a nuclear power reactor under 10 CFR parts 50 and 54; issuance, renewal, or amendment of an early site permit or combined license for a nuclear power reactor under 10 CFR parts 52 and 54; or the issuance, renewal, or amendment of a license for storage of spent nuclear fuel at an ISFSI under 10 CFR part 72. The impact determinations are deemed incorporated into any EIS prepared to support issuance, renewal, or amendment of an operating license or construction permit for a nuclear power reactor under 10 CFR parts 50 and 54; issuance, renewal, or amendment of an early site permit or combined license for a nuclear power reactor under 10 CFR parts 52 and 54; or the issuance, renewal, or amendment of a license for storage of spent nuclear fuel at an ISFSI under 10 CFR part 72. The impact determinations will be considered in EAs, if the impact determinations of continued storage of spent fuel are relevant to the proposed action. The NRC is making conforming changes to 10 CFR 51.30(b), 51.50(a). 51.50(b), 51.50(c), 51.53(b), 51.53(c), 51.53(d), 51.61, 51.75(a), 51.75(b), 51.75(c), 51.80(b), 51.95(b), 51.95(c), 51.95(d), and 51.97(a) to clarify that ISFSI license renewals, reactor construction permits, and early site permits are included in the scope of the generic determination; to reflect how the generic determination will be used in future NEPA reviews; and to improve readability of the rule language.

With respect to early site permits, the NRC has consistently acknowledged its intent to apply 10 CFR 51.23 in its early site permit reviews, and this interpretation has been approved by a number of Atomic Safety and Licensing Boards. See, (e.g., *Exelon Generation Co., LLC* (Early Site Permit for Clinton ESP Site), LBP–04–17, 60 NRC 229, 246–47 (2004); *Dominion Nuclear North Anna, LLC* (Early Site Permit for North Anna ESP Site), LBP–04–18, 60 NRC 253, 268–69 (2004)). The omission of early site permits from the text of 10 CFR 51.23(b) was highlighted by a public comment (see Section D.2.3.5 of the GEIS), and the NRC has decided that clarification of its continued storage rule to explicitly include early site permits is appropriate. The NRC has further determined that the same clarification is warranted with regard to the environmental review of a construction permit application. A construction permit is issued prior to issuance of a reactor operating license; the construction permit holder can subsequently receive an operating license for the constructed facility if applicable requirements are met. *See* 10 CFR 50.23 and 50.56. Thus, like an early site permit, a construction permit is a precursor to issuance of a reactor operating license and therefore falls within the scope of licensing activities specified in 10 CFR 51.23(b) for which clarification is warranted. The NRC is therefore amending 10 CFR 51.23(b) to clarify that the rule applies to early site permits and construction permits. The NRC notes that this clarification responds to the public comments on early site permits and builds on the clarification in the proposed rule to add ISFSI license renewals to the listed actions in 10 CFR 51.23(b), thus making the rule's application to these licensing activities equally explicit. See 78 FR 56804–56805.

Given the regulatory history of the waste confidence rules, the NRC's use of the generic determination in early site permit proceedings, and the NRC's extensive discussion of the purpose and objectives of the proposed rule in the statements of consideration, the public could have reasonably ascertained that the NRC would make clarifying changes in the final rule, including the addition of early site permits and construction permits, as a natural outgrowth of the proposed rule. These changes clarify the Commission's approach to ensure consistent evaluation of the environmental impacts of continued storage in all proceedings where spent fuel impacts arising from reactor operation may be considered, including the NEPA reviews for early site permits and construction permits, and thereby fully implement the NRC's objectives for this latest rule revision.

These changes to add early site permits and construction permits do not affect and are independent of the NRC's conclusions regarding the analysis in NUREG–2157, in 10 CFR 51.23(a), or the application of 10 CFR 51.23(b) to the licensing actions specified in the proposed rule. Accordingly, the Commission has determined that the balance of the rule for which prior notice was given can function sensibly and independently without these additional changes, and therefore intends that the balance of the rule be treated as severable to the extent possible. See *MD/DC/DE Broadcasters Ass'n* v. *FCC,* 236 F.3d 13, 22 (D.C. Cir. 2001).

With respect to changes to improve the rule's readability, the revisions do not change the requirements for applicants and do not modify the substantive standards by which the NRC evaluates license applications. The changes made to address readability do not affect and are independent of the NRC's conclusions regarding the analysis in NUREG–2157 as applied in 10 CFR 51.23(a) or the application of 10 CFR 51.23(b) to the licensing actions specified in the proposed rule.

The 2010 version of 10 CFR 51.23(b) provided that no discussion of any environmental impact of spent fuel continued storage is required in any NRC EA or EIS prepared in connection

with the issuance or amendment of an operating license for a nuclear power reactor under 10 CFR parts 50 and 54; or issuance or amendment of a combined license for nuclear power reactor under 10 CFR parts 52 and 54; or the issuance of an initial license or amendment for an ISFSI under 10 CFR part 72. In practice, the NRC does include a brief discussion of the generic determination of 10 CFR 51.23 in these EISs. See, (e.g., NUREG–1947, *Final Supplemental Environmental Impact Statement for Combined License (COLs) for Vogtle Electric Generating Plant Unit 3 and 4* and NUREG–1714, *Final Environmental Impact Statement for the Construction and Operation of an Independent Spent Fuel Storage Installation on the Reservation of the Skull Valley Band of Goshute Indians and the Related Transportation Facility in Tooele County, Utah).* Under NEPA, the NRC must analyze the impacts of continued storage pending ultimate disposal for both power reactors and ISFSIs. Although the 2010 rule as worded did not require any discussion, the NRC has historically met this NEPA obligation in practice in the EISs for power reactors and ISFSIs by relying on the generic determination. Because the NRC will now be relying on the GEIS for the generic determination instead of a FONSI, the NRC needs to clarify how the generic determination will be used in future NEPA documents to ensure consistent use. Section 51.23(b) is revised to state that the impact determinations in NUREG–2157 are deemed to be incorporated into EISs and that the NRC will consider the impact determinations in EAs, if the impacts of continued storage of spent fuel are relevant to the proposed action. This means that the NRC will use the impact determinations in NUREG–2157 to evaluate the contribution of the environmental impacts of continued storage as part of the overall NEPA analysis. For agency actions that have already been taken, the NRC will not prepare new analyses or revise the existing analyses with respect to the environmental impacts of continued storage; rather, when preparing EAs and EISs for pending and future licensing actions, the NRC's review will simply consider the incorporated impact determinations along with the other environmental impacts associated with the proposed action. The revisions do not change the requirements for applicants and do not modify the substantive standards by which the NRC evaluates license applications. The changes made to clarify how the generic determination will be used in future NEPA reviews do not affect and are independent of the NRC's conclusions regarding the analysis in NUREG–2157 as applied in 10 CFR 51.23(a).

B12. What changes in this rulemaking address continued storage for license renewal?

Table B–1, ''Summary of Findings on NEPA Issues for License Renewal of Nuclear Power Plants,'' addresses the environmental impacts of license renewal activities by resource area. Table B–1 is located in appendix B to subpart A of 10 CFR part 51, ''Environmental Effect of Renewing the Operating License of a Nuclear Power Plant.'' [5] In 1996, the Commission determined that offsite radiological impacts of spent nuclear fuel and high-level waste disposal would be a Category 1 issue with no impact level assigned (61 FR 28467, 28495; June 5, 1996). The Commission analyzed the U.S. Environmental Protection Agency (EPA) generic repository standards and dose limits in existence at the time and concluded that offsite radiological impacts warranted a Category 1 determination (61 FR 28467, 28478; June 5, 1996). In its 2009 proposed rule preceding the 2013 final rule, the Commission stated its intention to reaffirm that determination. (74 FR 38117, 38127; July 31, 2009). However, when the Commission issued the 2013 final rule, which amended Table B–1—along with other 10 CFR part 51 regulations—it stated that upon finalization of the Waste Confidence rule and accompanying technical analyses, the NRC would make any necessary conforming amendments to Table B–1 (78 FR 37282, 37293; June 20, 2013).

In this current rulemaking, the NRC is revising determinations related to two environmental issues in Table B–1: Onsite storage of spent fuel during the term of an extended license (resulting from the renewal of the plant's operating license) and the offsite radiological impacts of spent nuclear fuel and high-level waste disposal. Although the GEIS for this rulemaking does not include high-level waste disposal in the analysis of impacts, it does address the technical feasibility of a repository in Appendix B of the GEIS and concludes that a geologic repository for spent fuel is technically feasible and the same analysis applies to the feasibility of geologic disposal for high-level waste.

The Table B–1 finding for ''Onsite storage of spent nuclear fuel'' is revised to add the phrase ''during the license renewal term'' in two places in the first paragraph to make clear that the SMALL impact is for the license renewal term only. Some minor clarifying changes are also made to the paragraph. The first paragraph of the column entry now reads, ''During the license renewal term, SMALL. The expected increase in the volume of spent nuclear fuel from an additional 20 years of operation can be safely accommodated onsite during the license renewal term with small environmental impacts through dry or pool storage at all plants.'' In addition, a new paragraph is added to address the impacts of onsite storage of spent fuel during the continued storage period. The second paragraph of the column entry reads, ''For the period after the licensed life for reactor operations, the impacts of onsite storage of spent nuclear fuel during the continued storage period are discussed in NUREG–2157 and as stated in 10 CFR 51.23(b), shall be deemed incorporated into this issue.'' The changes reflect that this issue covers the environmental impacts associated with the storage of spent nuclear fuel during the license renewal term as well as the period after the licensed life for reactors operations.

The Table B–1 entry for ''Offsite radiological impacts of spent nuclear fuel and high-level waste disposal'' is revised by reclassifying the impact determination as a Category 1 [6] issue with no impact level assigned. The finding column entry for this issue includes reference to the existing radiation protection standards.

Although the status of a repository, including a repository at Yucca Mountain, is uncertain and outside the scope of the generic environmental analysis conducted to support this rulemaking, the NRC believes that it is appropriate to refer to the radiation standard for Yucca Mountain because it is the current standard. The changes to these two issues finalize the Table B–1 entries that the NRC had intended to promulgate in its 2013 rulemaking, but was unable to because the 2010 Waste Confidence rule had been vacated.

While the bases for the specific conclusions in Table B–1 are found elsewhere (e.g., the 1996 rule that issued

[5] The Commission issued Table B–1 in June, 1996 (61 FR 28467; June 5, 1996). The Commission issued an additional rule in December, 1996 that made minor clarifying changes to, and added language inadvertently omitted from, Table B–1 (61 FR 66537; December 18, 1996). The NRC revised Table B–1 and other regulations in 10 CFR part 51, relating to the NRC's environmental review of a nuclear power plant's license renewal application in a 2013 rulemaking (78 FR 37282; June 20, 2013).

[6] For purposes of Table B–1, a designation as Category 1 means that the generic analysis of the issue may be adopted in each site-specific review. Category 2 means that additional plant-specific review is required.

Table B–1 and the 1996 license renewal GEIS, which provided the technical basis for that rulemaking, as reaffirmed by the 2013 rulemaking and final GEIS), the Commission has concluded in this GEIS that deep geologic disposal remains technically feasible. This rulemaking accordingly revises the entries for these two issues in Table B–1. The NRC provided notice of this revision in the **Federal Register** for the proposed rule (78 FR 56776; September 13, 2013) and received two comments on the table. See Sections D.2.3.6 and D.2.3.9 of Appendix D of the GEIS.

C. Repository and Continued Storage Conclusions

C1. What is the basis of the NRC's conclusion that a geologic repository is feasible?

The technical feasibility of a repository is addressed in Section B.2.1 of the GEIS. Technical feasibility simply means whether a geologic repository is technically possible using existing technology (i.e., without any fundamental breakthroughs in science and technology). As discussed in Section B.2.1, the consensus within the scientific and technical community engaged in nuclear waste management is that safe geologic disposal is achievable with currently available technology. Currently, 25 countries, including the United States, are considering disposal of spent or reprocessed nuclear fuel in deep geologic repositories.

As noted in Section B.2.1 of the GEIS, ongoing research in both the United States and other countries supports a conclusion that geological disposal remains technically feasible and that acceptable sites can be identified. After decades of research into various geological media, no insurmountable technical or scientific problem has emerged to challenge the conclusion that safe disposal of spent fuel and high-level radioactive waste can be achieved in a mined geologic repository. Over the past two decades, significant progress has been made in the scientific understanding and technological development needed for geologic disposal.

As discussed in Section B.2.1, activities of European countries, experience in reviewing the DOE's Yucca Mountain license application, and DOE defense-related activities at the Waste Isolation Pilot Plant all support the technical feasibility of a deep geologic repository. Based on national and international research, proposals, and experience with geological disposal, the NRC concludes that a geologic repository continues to be technically feasible.

C2. What is the basis for the NRC's conclusion that a repository will be available?

The availability of a repository is addressed in Section B.2.2 of the GEIS. Progress in development of repositories internationally provides useful experience in building confidence that the most likely scenario is that a repository can and will be developed in the United States in the short-term timeframe. Based on the examination of a number of international programs and DOE's current plans, the NRC continues to believe that 25 to 35 years is a reasonable period for repository development (i.e., candidate site selection and characterization, final site selection, licensing review, and initial construction for acceptance of waste). A discussion of international repository programs and DOE's current plans can be found in Section B.2.2 of the GEIS.

As discussed in Section B.2.2 of the GEIS, the time DOE will need to develop a repository site will depend upon a variety of factors, including Congressional action and funding. Public acceptance will also influence the time it will take to implement geologic disposal. As stated in its ''Strategy for the Management and Disposal of Used Nuclear Fuel and High-Level Radioactive Waste'' (ADAMS Accession No. ML13011A138), DOE's current plans predict that a repository will be available by 2048. Although the NRC believes that 25–35 years is a reasonable timeframe for repository development, the NRC acknowledges that there is sufficient uncertainty in this estimate that the possibility that more time will be needed cannot be ruled out. International and domestic experience clearly demonstrate that technical knowledge and experience alone are not sufficient to bring about the broad social and political acceptance needed to construct a repository. The time needed to develop a societal and political consensus for a repository could add to the time to site and license a repository or overlap it to some degree. Given this uncertainty, the GEIS evaluates a range of scenarios for the timeframe of the development of a repository, including indefinite storage. As discussed in Section B.2.2, the NRC believes that the United States will open a repository within the short-term time frame of 60 years, but, to account for all possibilities, has included a second, longer time frame as well as the scenario in which a repository never becomes available. This analysis does not constitute an endorsement of extended onsite storage of spent fuel as the appropriate long-term solution for disposition of spent fuel and high-level waste.

C3. Does the rule address the feasibility and timing of a repository?

No. As discussed in Issue 1 (see Section IV, ''Summary and Analysis of Public Comments on the Proposed Rule''), the NRC specifically sought public comment on this issue and decided not to address the feasibility and timing of a repository in the rule text itself, instead analyzing various time scenarios for repository availability in the GEIS, including the possibility that a repository will not be available. A discussion of the feasibility and timing of a repository can be found in Appendix B of the GEIS.

C4. What is the basis for the NRC's conclusion regarding safe storage of spent fuel in spent fuel pools?

Section B.3.1 of the GEIS discusses the feasibility of safe storage of spent fuel in spent fuel pools and addresses a number of technical considerations. First, the integrity of spent fuel and cladding within the environment of a spent fuel pool's controlled water chemistry is supported by operational experience and a number of scientific studies. Based on available information and operational experience as discussed in Section B.3.1.1, degradation of the fuel cladding occurs very slowly over time in the spent fuel pool environment. Degradation of the spent fuel should be minimal over the short-term storage timeframe. In the GEIS, the NRC assumes that the spent fuel pool will be decommissioned before the end of the short-term storage timeframe; however, the NRC is not aware of any information that would call into question the technical feasibility of continued safe storage of spent fuel in spent fuel pools beyond the short-term storage timeframe.

Second, the spent fuel pool's robust structural design protects against a range of natural and human-induced challenges, which are discussed in detail in Section B.3.1.2 and in the body of the GEIS. Spent fuel pools are massive seismically-designed structures that are constructed from thick, reinforced concrete walls and slabs. Section B.3.1.2 discusses a number of studies and evaluations on storage of spent fuel in a spent fuel pool and the associated accident risk. In Section B.3.1.2, the NRC concludes that the likelihood of major accidents at spent fuel pools resulting in offsite consequences is very remote. In

particular, Appendix F supports the NRC's determination that the environmental impacts from spent fuel pool fires are SMALL during the short-term storage timeframe based on the low risk of a spent fuel pool fire. As noted in Section B.3.1.2, the NRC is not aware of any study that would cause it to question the low risk of spent fuel pool accidents and thereby question the technical feasibility of continued safe storage of spent fuel in spent fuel pools for the short-term timeframe considered in the GEIS. Further, as described in Appendix E, the NRC has determined that the public health impact from potential spent fuel pool leaks is SMALL.

C5. What is the basis for the NRC's conclusion regarding safe storage of spent fuel in dry casks?

As explained in Section B.3.2 of the GEIS, the feasibility of dry cask storage is supported by years of experience and technical studies and NRC reviews that examined and confirmed the integrity of spent fuel and cladding under the controlled environment within dry cask storage systems. The technical feasibility of these systems is further supported by the robustness of the structural design of the dry cask storage system against a variety of challenges, both natural and human-induced. Based on available information and operational experience as discussed in Section B.3.2.1, degradation of the spent fuel should be minimal over the short-term storage timeframe if conditions inside the canister are appropriately maintained (e.g., consistent with the technical specifications for storage). Thus, it is expected that only routine maintenance will be needed over the short-term storage timeframe. In the GEIS, the NRC conservatively assumes that the dry casks would need to be replaced if storage continues beyond the short-term storage timeframe. The NRC assumes replacement of dry casks after 100 years of service life, even though studies and experience to date do not preclude a longer service life. Accidents associated with repackaging spent fuel are evaluated in Section 4.18, and the NRC determined that the environmental impacts are SMALL because the accident consequences would not exceed the NRC accident dose standard contained in 10 CFR 72.106. Dry cask storage systems are passive systems that are inherently robust, massive, and highly resistant to damage. To date, the NRC and licensee experience with ISFSIs and cask certification indicates that spent fuel can be safely and effectively stored using passive dry cask storage technology. As explained in Section B.3.2.2, technical studies and practical operating experience to date confirm the physical integrity of dry cask storage structures and thereby demonstrate the technical feasibility of continued safe storage in dry cask storage systems for the time periods considered in the GEIS.

As noted in Sections B.3.2.1 and B.3.2.2, the NRC is not aware of any issue that would cause it to question the technical feasibility of continued safe storage of spent fuel in dry casks for the timeframes considered in the GEIS. However, as part of continued oversight, the NRC continues to evaluate aging management programs and to monitor dry cask storage so that it can update its service life assumptions as necessary and consider any circumstances that might require repackaging spent fuel earlier than anticipated.

C6. How does the regulatory framework factor into the continued safe storage of spent fuel?

A strong regulatory framework that involves regulatory oversight, continuous improvement based on research and operating experience, and licensee compliance with regulatory requirements is important to the continued safe storage of spent fuel until repository capacity is available. As part of its oversight, the NRC can issue orders and new or amended regulations to address emerging issues that could impact the safe storage of spent fuel, as well as issue generic communications such as generic letters and information notices. The regulatory framework is discussed in Section B.3.3 of the GEIS. The NRC's upgrades of safety, environmental, and security requirements following historic events such as the September 11, 2001, terrorist attacks, and the March 11, 2011, earthquake and subsequent tsunami that struck the Fukushima Dai-ichi nuclear power plant demonstrate the NRC's capability for prompt and vigorous response to new developments that warrant increased regulatory attention. Thus, the vitality and evolution of the NRC's regulatory requirements support a reasonable conclusion that continued storage, even over extended periods of time beyond those regarded as most likely, will continue to be safe with the same or less environmental impact. Section B.3.3.1 discusses the NRC's oversight related to routine operations, accidents, and terrorist activity in more detail. Section B.3.3.2 and Appendix E discuss the NRC's response to spent fuel pool leaks and Section B.3.3.3 discusses the regulatory framework related to dry cask storage.

The NRC continues to improve its understanding of long term dry storage issues and is separately examining the regulatory framework and potential technical issues related to extended storage and subsequent transportation of spent fuel for multiple ISFSI license renewal periods extending beyond 120 years. As part of this effort, the NRC is also closely following DOE and industry efforts to study the effects of storing high burn-up spent fuel in casks. As information becomes available, the NRC will analyze the information to determine if additional or different actions are necessary. If necessary, the NRC will issue orders or enhance its regulatory requirements for storage of spent fuel, as appropriate, to continue providing adequate protection of public health and safety and the common defense and security.

As discussed in Section B.3.3.4, the NRC will continue its regulatory control and oversight of spent fuel storage through both specific and general 10 CFR part 72 licenses. Decades of operating experience and ongoing NRC inspections demonstrate that the reactor and ISFSI licensees continue to meet their obligation to safely store spent fuel in accordance with the requirements of 10 CFR parts 50, 52, and 72. If the NRC were to find noncompliance with these requirements or otherwise identify a concern with the safe storage of the spent fuel, the NRC would evaluate the issue and take whatever action or change in its regulatory program is necessary to protect the public health and safety and the environment.

Section B.3.4 concludes that the NRC believes that for the storage timeframes considered in the GEIS, regulatory oversight will continue in a manner consistent with the NRC's regulatory actions and oversight in place today to provide for continued storage of spent fuel in a safe manner until sufficient repository capacity is available for the safe disposal of all spent fuel.

C7. Does the rule address the safety of continued storage of spent fuel?

No. As discussed in Issue 2 (see Section IV, ''Summary and Analysis of Public Comments on the Proposed Rule''), the NRC specifically sought public comment on this issue and decided not to address the continued safe storage of spent fuel in the rule text itself. Appendix B of the GEIS discusses the feasibility of safe storage of spent fuel. Additionally, feasibility of continued safe storage and the regulatory framework are addressed in Questions C4, C5, and C6.

In summary, storage of spent fuel will be necessary until a repository is

available for permanent disposal. The storage of spent fuel in any combination of spent fuel pools or dry casks will continue as a licensed activity under regulatory controls and oversight. Licensees continue to develop and successfully use onsite spent fuel storage capacity in the form of spent fuel pools and dry casks in a safe and environmentally sound fashion. Technical understanding and experience continues to support the technical feasibility of safe storage of spent fuel in spent fuel pools and in dry casks, based on their physical integrity over long periods of time. However, the safety determinations associated with licensing of these activities are contained in the appropriate regulatory provision addressing licensing requirements and in the specific licenses for facilities. While those safety determinations are not the subject of this rulemaking they serve to inform the analysis of likely environmental impacts. The NRC concludes that spent fuel can continue to be safely managed in spent fuel pools and dry casks and that regulatory oversight exists to ensure the aging management programs continue to be updated to address the monitoring and maintenance of structures, systems, and components that are important to safety. Based on all of the information set forth in Appendix B of the GEIS, the NRC concludes that spent fuel can be safely managed in spent fuel pools in the short-term timeframe and dry casks during the short-term, long-term, and indefinite timeframes evaluated in the GEIS.

III. Rulemaking Procedure

Under the Administrative Procedure Act (5 U.S.C. 553(b)(A)), an agency may waive the normal notice and comment requirements if the rule is an interpretive rule, a general statement of policy, or a rule of agency organization, procedure, or practice.

As authorized by 5 U.S.C. 553(b)(A), the NRC has waived the notice and comment requirements for the additional clarifying amendments to 10 CFR 51.23(b) and conforming amendments to 10 CFR 51.50(a), 51.50(b), 51.75(a), and 51.75(b) that were not included in the proposed rule. The additional amendments expand the list of licensing proceedings for which site-specific consideration of the environmental impacts of continued storage is not needed, to include construction permits and early site permits. Paragraph 51.23(b) of 10 CFR is a rule of agency procedure and practice that governs how the NRC implements NEPA. This paragraph describes how the NRC will implement the NRC's generic determination in 10 CFR 51.23(a) in site-specific NEPA reviews in licensing proceedings (i.e., by precluding a duplicative review in an individual licensing proceeding). The changes to 10 CFR 51.23(b) do not modify the substantive standards by which the NRC will evaluate license applications and do not alter the generic determination in 10 CFR 51.23(a). Rather, the additional changes to 10 CFR 51.23(b) clarify that the generic finding in 10 CFR 51.23(a) also precludes a duplicative NRC review of the environmental effects of continued storage in early site permit and construction permit application reviews, no different than the other NRC licensing proceedings already listed in that paragraph. NEPA is a procedural statute directed at Federal agencies, and 10 CFR 51.23 (including the additional clarifying amendments) addresses the manner by which the NRC complies with NEPA with respect to the subject of continued storage. These amendments do not require action by any person or entity regulated by the NRC, nor do these amendments modify the substantive responsibilities of any person or entity regulated by the NRC. That the additional amendments do not impose any substantive responsibilities or require or prohibit action by any persons or entities regulated by the NRC is indicative of the character of the amendments as matters of NRC procedure and practice.

As authorized by 5 U.S.C. 553(b)(A), the NRC has also waived the notice and comment requirements for the additional amendments to 10 CFR 51.23(b), 51.30(b), 51.50(c), 51.53(b), 51.53(c), 51.53(d), 51.61, 51.75(c), 51.80(b), 51.95(b), 51.95(c), 51.95(d), and 51.97(a) that were not included in the proposed rule. These additional amendments are made to improve readability and to clarify how the generic determination will be used in future NEPA documents for power reactors and ISFSIs. The changes do not modify the substantive standards by which the NRC will evaluate license applications and do not alter the generic determination in 10 CFR 51.23(a). Rather, the additional changes improve the readability of the regulations to make it easier to understand and provide consistency in how the generic finding in 10 CFR 51.23(a) will be used in NRC NEPA documents. NEPA is a procedural statute directed at Federal agencies, and 10 CFR 51.23 (including the additional clarifying amendments) addresses the manner by which NRC complies with NEPA with respect to the subject of continued storage. These amendments do not require action by any person or entity regulated by the NRC, nor do these amendments change the substantive responsibilities of any person or entity regulated by the NRC. That the additional amendments do not impose any substantive responsibilities or require or prohibit action by any persons or entities regulated by the NRC is indicative of the character of the amendments as matters of NRC procedure and practice.

IV. Summary and Analysis of Public Comments on the Proposed Rule

The proposed rule was published on September 13, 2013 (78 FR 56776), for a 75-day public comment period that would have ended on November 27, 2013. The draft GEIS was also noticed for public comment on the same day. Due to the lapse in appropriations and the subsequent shutdown of the NRC, the NRC published a **Federal Register** notice on November 7, 2013 (78 FR 66858), that extended the public comment period until December 20, 2013. The NRC also held 13 public meetings during the comment period to obtain public comment on the proposed rule and draft GEIS. The NRC received 33,099 comment submissions from organizations and individuals. Of those comments, 924 represented unique comment submissions and the remainder were considered form comments sponsored by various organizations. In addition, a number of individuals provided oral comments at the public meetings that resulted in more than 1,600 pages of transcribed comments. The commenters on the proposed rule and draft GEIS included Tribal governments, State governments, industry groups, advocacy groups, licensees, and individuals. The EPA also provided comments under its authority to review EISs.

In general, there was a range of views from commenters concerning the rulemaking and draft GEIS, both in support and in opposition. Many individuals provided comments that expressed opposition to or support for nuclear power and licensing of nuclear facilities in general and comments related to actions at specific nuclear power plants. Commenters expressed concerns related to the NEPA process, continued safe storage of spent fuel, repository availability, reliance on institutional controls, costs, climate change, pool fires, pool leaks, and accidents among other things. In this section the NRC summarizes the four issues on which the NRC specifically requested input: (1) Whether specific policy statements regarding the timeline for repository availability should be

removed from the rule text; (2) whether specific policy statements regarding the safety of continued spent fuel storage should be made in the rule text given the expansive and detailed information in the draft GEIS; (3) whether the Discussion portion of the Statements of Consideration should be streamlined by removing content that is repeated from the draft GEIS in order to improve clarity of the discussion; and (4) whether the title of the rule should be changed in light of a GEIS being issued instead of a sep(arate Waste Confidence Decision. Responses to the comments received on the proposed rule and draft GEIS are provided in Appendix D of the GEIS, *Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel,* Volume 2 (ADAMS Accession No. ML14196A107). Separately, the NRC published a document containing the text of all identified unique comments, ''Comments on the Waste Confidence Draft Generic Environmental Impact Statement and Proposed Rule,'' which is located in ADAMS under Accession No. ML14154A175. This separate document provides individual comments organized by comment category, and comment author tables.

Issue 1

In the proposed rule, the NRC invited comment on whether the timeline for repository availability should be included in the rule text. Commenters were requested to comment on whether specific policy statements regarding the timeline for repository availability should be removed from the proposed rule text. A total of 13 commenters responded.

Commenters who responded to Issue 1 generally expressed support for removing a statement regarding the repository availability timeline from the rule text. Reasons for this support varied, but commonly included a lack of NRC control over repository timelines; previous failures to predict when a repository would become available; the inadequacy of a basis for any particular timeline; that a timeline is not required under NEPA; and the concern that including a statement about repository availability ties the United States to repository disposal of spent fuel to the exclusion of reprocessing or other options.

The few commenters who expressed support for retaining a statement regarding the timeline for repository availability indicated that the timeline is an important element of the ''contract'' the public has with the nuclear industry; that the availability of a repository is the most critical issue affecting long-term dry cask storage; that inclusion of a statement regarding repository availability in the rule text indicates the importance the Commission places on this key assumption of the GEIS; and that these findings are useful in framing the NRC's assessment of the safety and environmental impacts of continued storage.

After considering the comments, the NRC has decided not to retain the timeline in the rule text. With the development of the GEIS, the relationship between repository availability and the consideration of environmental impacts from continued storage has changed from previous proceedings. In previous proceedings, the date of future repository availability was the end point of the temporal scope of the NRC's analysis of the environmental impacts from continued storage. In this rulemaking, there is no end point to the temporal scope of the NRC's analysis of the environmental impacts of continued storage. Further, the NRC agrees that there is no legal requirement to include a timeline in the rule text. Although future repository availability remains an important consideration because it provides an eventual disposition path for spent fuel, there no longer is a need to provide a time limit for the environmental impacts analysis. To support the analysis in the GEIS, the NRC has determined that a repository is technically feasible and that it is technically feasible to safely store the spent fuel. The removal of a timeframe from the rule language does not mean that the Commission is endorsing indefinite storage of spent fuel. The United States national policy remains disposal of spent fuel in a geologic repository, and, as stated in the GEIS, the NRC believes that the most likely scenario is that a repository will become available by the end of the short-term timeframe (60 years beyond the licensed life for operation of a reactor).

Further, the GEIS recognizes the uncertainty inherent in predicting when a repository will become available. It therefore contains an analysis of two additional timeframes: A long-term timeframe that contemplates an additional 100 years of storage and an indefinite timeframe that looks at the environmental impacts that could occur if a repository never becomes available. Appendix B of the GEIS and Section II.C of this notice contain a discussion of repository feasibility.

Issue 2

In the proposed rule, the NRC invited comment on the issue of including statements regarding the safety of continued spent fuel storage in the rule text. Commenters were requested to comment on whether specific policy statements regarding the safety of continued spent fuel storage should be made in the rule text given the expansive and detailed information in the GEIS. A total of 13 commenters provided responses to the specific question on this subject.

Commenters who responded to Issue 2 generally expressed support for making a policy statement regarding safety of continued storage in the rule text. However, their reasons varied widely. Some commenters indicated that including a statement about safety enhanced openness and transparency or supported the language because storage is, in fact, safe. Other commenters indicated that it should be included because safety determinations are more important to NRC decisions and to members of the public than environmental issues in spent fuel matters; because the public should have the benefit of the NRC's determination that spent fuel may be stored for extended periods with reasonable assurance of safety; because a safety statement would facilitate opposition to nuclear power; because it is consistent with the long-standing approach to addressing continued storage; and because it addresses legal precedents.

Commenters who opposed a policy statement regarding safety of continued storage in the rule text asserted that a statement is unnecessary to the rule; that it is not possible to project the future safety of spent fuel storage; that statements related to safety of spent fuel storage are entirely unrelated and unnecessary to the intended purpose of the rule; and that there are too many unknowns and open issues related to storage that must be resolved before any statement regarding safety can be made.

After considering the comments, the NRC has decided not to make a policy statement about safe storage in the rule text. The generic conclusion that spent fuel can be stored safely beyond the operating life of a power reactor has been a component of all past Waste Confidence proceedings. However, this continued storage rulemaking proceeding is markedly different from past proceedings. Unlike earlier proceedings, the NRC has prepared a GEIS that analyzes the impacts of continued storage of spent fuel. The GEIS fulfills the NRC's NEPA obligations and provides a regulatory basis for the rule rather than addressing the agency's responsibilities to protect public health and safety under the Atomic Energy Act (AEA), of 1954 as

amended. Further, Appendix B of the GEIS discusses the technical feasibility of continued safe storage. It is important to note that, in adopting revised 10 CFR 51.23 and publishing the GEIS, the NRC is not making a safety determination under the AEA to allow for the continued storage of spent fuel. AEA safety determinations associated with licensing of these activities are contained in the appropriate regulatory provision addressing licensing requirements and in the specific licenses for facilities. Further, there is not any legal requirement for the NRC to codify a generic safety conclusion in the rule text. By not including a safety policy statement in the rule text, the NRC does not imply that spent fuel cannot be stored safely. To the contrary, the analysis documented in the GEIS is predicated on the ability to store spent fuel safely over the short-term, long-term, and indefinite timeframes. This understanding is based upon the technical feasibility analysis in Appendix B of the GEIS and the NRC's decades-long experience with spent fuel storage and development of regulatory requirements for licensing of storage facilities that are focused on safe operation of such facilities, which have provided substantial technical knowledge about storage of spent fuel. Further, spent fuel is currently being stored safely at reactor and storage sites across the country, which supports the NRC's conclusion that it is feasible for spent fuel to be stored safely for the timeframes considered in the GEIS. Appendix B of the GEIS and Section II.C of this notice contain a discussion of the technical feasibility and regulatory framework that supports continued safe storage.

Issue 3

In the proposed rule, the NRC invited comment on the issue of streamlining the Statements of Consideration. Commenters were specifically requested to comment on whether the Discussion portion of the Statements of Consideration should be streamlined by removing content that is repeated from the draft GEIS to improve clarity of the discussion. A total of 13 commenters provided responses to the specific question on this subject.

Commenters who responded to Issue 3 provided both support and opposition for streamlining. Commenters who supported streamlining did so most frequently because it would improve clarity or because it would reduce redundancy. Other reasons included that lengthy **Federal Register** notices are burdensome to search and that streamlining could remove anachronisms.

Commenters who opposed streamlining most commonly did so because the information in the Discussion section supports the rule or provides a plain-language explanation of matters in the rule. Other commenters opposed streamlining because it would introduce changes upon which the public has not been able to comment; because the Statements of Consideration should address findings that the NRC historically included as part of the Waste Confidence Decision; and because the **Federal Register** is more readily available to the public and is easier to search than the GEIS. Commenters indicated that the Statements of Consideration should contain enough information that it can be used as a stand-alone document.

After considering the comments and looking at ways to be more concise in presenting the information, the NRC has streamlined the Statements of Consideration where it is appropriate to do so without removing text necessary to explain the action that the NRC is taking. As noted in the comments, the **Federal Register** notice for the rule must contain enough information to explain the matters in the rule; however, it does not need to be a stand-alone document. The GEIS provides a regulatory basis for the rule and not everything in the GEIS needs to be addressed in the Statements of Consideration. Some redundancy with the GEIS remains to ensure adequate information is present to explain the nature and intent of the rule. After streamlining, the Statements of Consideration still contains sufficient information in plain language to provide the reader with an understanding of the nature and intent of the rule.

Issue 4

In the proposed rule, the NRC invited comment on changing the rule title. Commenters were requested to comment on whether the title of the rule should be changed in light of a GEIS being issued instead of a separate Waste Confidence Decision. A total of 13 commenters provided responses to the specific question on this subject.

Commenters who responded to Issue 4 expressed near-unanimous support for changing the title of the rule. Reasons for support, however, varied widely. Commenters indicated an array of reasons to support changing the rule name, including that the name is an anachronism; that the title is misleading and provides no useful description of the revised rule's purpose or intent; that the title shows a lack of transparency; that historical findings of confidence have proven erroneous; that confidence does not exist; that the U.S. Court of Appeals for the District of Columbia Circuit invalidated confidence as a basis for the rule; that the title should be changed to reflect the evolving rulemaking process (no separate Waste Confidence Decision and reliance on the GEIS); and that confidence requires transfer of all fuel to dry casks and a defined and available end point. Many other commenters—who did not expressly respond to this issue—expressed views that ''waste confidence'' is a confusing term or that it conveys a confidence that does not exist. Commenters noted that with a clearer title, the purpose and limited application of the rule would be more evident to members of the public who are not aware of the historical basis for the term ''waste confidence.'' Commenters suggested that the title should more accurately reflect the true Federal action of licensing and relicensing of reactors and ISFSIs and should accurately reflect the purpose of the analysis, evaluation, and conclusions of the study. Suggestions for a new title included ''Storage of SNF [Spent Nuclear Fuel] after Licensed Term of Operations'' and ''Storage of Spent Nuclear Fuel for the Period After License Term of Reactor Operation.''

Only one commenter who responded to this issue expressed opposition to revising the title. The commenter was opposed to changing the title because waste confidence is what the rulemaking has historically been about and the rule should still be about confidence that a repository will be available.

After considering the comments, the NRC has decided to change the title of the rule. The title of a rule should convey the nature and content of the rule. This rule represents a change in the format from past Waste Confidence proceedings. Because of the decades of experience with safely storing spent fuel and the fact that the Commission has issued a GEIS to support the rule, which provides a detailed analysis of the environmental impacts associated with continued storage, the nature of the rule has changed and the need for a separate Waste Confidence Decision no longer exists. The rule codifies the environmental impact of continued storage of spent fuel beyond the licensed life for operation of a reactor at 10 CFR 51.23(a). The rule is used in reactor and ISFSI licensing and relicensing proceedings to address the environmental impacts of storage of spent fuel for the period after the licensed life for operation of the reactor and before disposal. Including ''waste

confidence'' in the title of the proposed rule was intended to bridge past rulemakings on the topic to the current effort, recognizing that there is no separate Waste Confidence Decision included in the current proceeding. However, it is clear from the comments that using the historical term ''waste confidence'' in the title has caused some confusion. The NRC agrees that a title that more accurately reflects the content is more appropriate. Therefore, the NRC has changed the title of this notice to ''Continued Storage of Spent Nuclear Fuel.'' The title of the GEIS was also changed accordingly.

V. Discussion of Final Amendments by Section

§ 51.23 Environmental Impacts of Continued Storage of Spent Nuclear Fuel Beyond the Licensed Life for Operation of a Reactor

The heading of the section is revised to reflect that the section is no longer based on an EA and FONSI, but on an EIS and that environmental effects of continued storage are included in the section.

Paragraph (a) of 10 CFR 51.23 is revised to provide the Commission's generic determination of the environmental impacts on the continued storage of spent fuel. The amendments state that the Commission has generically determined that the environmental impacts of continued storage of spent nuclear fuel beyond the licensed life for operation of a reactor are those impacts identified in NUREG–2157.

Paragraph (b) of 10 CFR 51.23 is revised to clarify that ISFSI renewals, reactor construction permits, and early site permits are included in the scope of the generic determination. The final rule also makes changes to improve readability and by providing additional clarity regarding the application of the generic determination in 10 CFR 51.23(a) in future NRC NEPA reviews. Provisions applicable to applicants and the NRC are separated to make it clear that applicants do not need to address continued storage and that for the NRC's NEPA documents the impact determinations in NUREG–2157 are deemed incorporated into EISs and will be considered in EAs, if the impacts of continued storage of spent fuel are relevant to the proposed action.

§ 51.30 Environmental Assessment

Paragraph (b) is revised to clarify that EAs will consider the generic impact determinations in NUREG–2157, if the impacts of continued storage of spent fuel are relevant to the proposed action.

§ 51.50 Environmental Report—Construction Permit, Early Site Permit, or Combined License Stage

Section 51.50 is revised to clarify that construction permits, early site permits, and combined licenses are included in the scope of the generic determination in § 51.23 and that the applicants' environmental reports do not need to discuss the impacts of continued storage.

§ 51.53 Postconstruction Environmental Reports

Section 51.53 is revised to improve readability and to clarify that applicants' postconstruction environmental reports do not need to discuss the impacts of continued storage.

§ 51.61 Environmental Report—Independent Spent Fuel Storage Installation (ISFSI) or Monitored Retrievable Storage Installation (MRS) License

Section 51.61 is revised to clarify that ISFSI renewals are included in the scope of the generic determination in § 51.23, to improve readability, and to clarify that an applicant's ISFSI environmental report does not need to discuss the impacts of continued storage.

§ 51.75 Draft Environmental Impact Statement—Construction Permit, Early Site Permit, or Combined License

Section 51.75 is revised to clarify that construction permits and early site permits are included in the scope of the generic determination in § 51.23 and that the impact determinations on continued storage that are in NUREG–2157 are deemed to be incorporated into the draft EIS. Although footnote 5 is included in the regulatory text, it is not being amended but is included to meet an Office of the Federal Register publication requirement.

§ 51.80 Draft Environmental Impact Statement—Materials License

Paragraph (b) is revised to clarify that ISFSI renewals are included in the scope of the generic determination in § 51.23 and to improve readability. Paragraph (b) is further revised to clarify that the impact determinations on continued storage that are in NUREG–2157 are deemed to be incorporated into the EIS.

§ 51.95 Postconstruction Environmental Impact Statements

Paragraphs (b), (c), and (d) are revised to clarify that the impact determinations on continued storage that are in NUREG–2157 are deemed to be incorporated into the EIS or considered in the EA, if the impacts of continued storage of spent fuel are applicable to the proposed action.

§ 51.97 Final Environmental Impact Statement—Materials License

Paragraph (a) is revised to clarify that ISFSI renewals are included in the scope of the generic determination in § 51.23 and to improve readability. Paragraph (a) is further revised to clarify that the impact determinations on continued storage that are in NUREG–2157 are deemed to be incorporated into the EIS.

Table B–1—Summary of Findings on NEPA Issues for License Renewal of Nuclear Power Plants

Table B–1 addresses the environmental impacts of license renewal activities by resource area. When the Commission issued the final rule on the environmental effects of license renewal (78 FR 37282; June 20, 2013), it was not able to rely on the Waste Confidence rule for two of the issues. The Commission noted that upon issuance of the GEIS and rule, the NRC would make any necessary conforming changes to the license renewal rule. This final rule revises these two Table B–1 finding column entries under the Waste Management section to address onsite storage and offsite radiological impact of disposal. The ''Offsite radiological impacts of spent nuclear fuel and high-level waste disposal'' issue is reclassified as a Category 1 issue with no impact level assigned and the finding column entry is revised to include reference to the existing radiation protection standards. For the ''Onsite storage of spent nuclear fuel'' issue, the finding column entry is revised to address the impacts of onsite storage during the license renewal term and during the continued storage period. Additionally, footnote 7 of Table B–1 is removed. Although footnotes 1, 2, and 3 are included in the regulatory text, they are not being amended but are included to meet an Office of the Federal Register publication requirement.

VI. Availability of Documents

The documents identified in the following table are available to interested persons either through ADAMS or the Web address provided, as indicated.

Document	PDR	Web (*www.regulations.gov* unless otherwise indicated)	ADAMS
NRC Documents			
Federal Register notice—Extension of Comment Period (78 FR 66858; November 7, 2013).	X	X	ML13294A398.
Federal Register notice—Waste Confidence—Continued Storage of Spent Nuclear Fuel; Proposed Rule (78 FR 56776; September 13, 2013).	X	X	ML13256A004.
NUREG–2157, ''Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel'' Vol. 1.	X	X	ML14196A105.
NUREG–2157, ''Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel'' Vol. 2.	X	X	ML14196A107.
''Comments on the Waste Confidence Draft Generic Environmental Impact Statement and Proposed Rule''.	X	X	ML14154A175.
Draft NUREG–2157, ''Waste Confidence Generic Environmental Impact Statement''.	X	X	ML13224A106.
Federal Register notice announcing the 1977 Denial of PRM–50–18 (42 FR 34391; July 5, 1977).	X		ML13294A161.
Federal Register notice announcing generic proceeding on Waste Confidence (44 FR 61372, 61373; October 25, 1979).	X		
Federal Register notice—1984 Waste Confidence Final Rule (49 FR 34688; August 31, 1984).	X		ML033000242.
Federal Register notice—1984 Final Waste Confidence Decision (49 FR 34658; August 31, 1984).	X		ML033000242.
Federal Register notice—1990 Waste Confidence Final Rule (55 FR 38472; September 18, 1990).	X		ML031700063.
Federal Register notice—1990 Waste Confidence Decision (55 FR 38474; September 18, 1990).	X		ML031700063.
Federal Register notice—1999 Waste Confidence Decision Review (64 FR 68005; December 6, 1999).	X		ML003676331.
Federal Register notice—''Licenses, Certifications, and Approvals for Nuclear Power Plants'' (72 FR 49352; August 8, 2007).	X		ML063060337.
Federal Register notice—2010 Waste Confidence Final Rule (75 FR 81037; December 23, 2010).	X		ML103350175.
Federal Register notice—2010 Waste Confidence Decision Update (75 FR 81032; December 23, 2010).	X		ML120970147.
Federal Register notice—License Renewal GEIS Final Rule (78 FR 37282: June, 20, 2013).	X		ML13101A059.
COMSECY–12–0016—Approach for Addressing Policy Issues Resulting from Court Decision to Vacate Waste Confidence Decision and Rule (June 9, 2012).	X		ML12180A424.
SRM–COMSECY–12–0016—Approach for Addressing Policy Issues Resulting from Court Decision to Vacate Waste Confidence Decision and Rule (September 6, 2012).	X		ML12250A032.
Luminant Generation Co. LLC (Comanche Peak Nuclear Power Plant, Units 3 and 4), et al., CLI–12–7, 75 NRC 379, 391–92 (March 16, 2012).	X		ML12076A190.
NUREG 1947, ''Final Supplemental Environmental Impact Statement for Combined License (COLs) for Vogtle Electric Generating Plant Unit 3 and 4''.	X		ML11076A010.
NUREG–1714, Volume 1, ''Final Environmental Impact Statement for the Construction and Operation of an Independent Spent Fuel Storage Installation on the Reservation of the Skull Valley Band of Goshute Indians and the Related Transportation Facility in Tooele County, Utah''.	X		ML020150170.
Exelon Generation Co., LLC (Early Site Permit for Clinton ESP Site), LBP–04–17, 60 NRC 229, 246–47 (August 6, 2004).	X		ML042260071.
Dominion Nuclear North Anna, LLC (Early Site Permit for North Anna ESP Site), LBP–04–18, 60 NRC 253, 268–69 (August 6, 2004).	X		ML042260064.
Non-NRC Documents			
NRDC v. *NRC,* 582 F.2d 166 (2d Cir. 1978)		*http://scholar.google.com/scholar_case?case=1292280692394324643* Note: This link directs the reader to an unofficial copy of this case.	

Document	PDR	Web (*www.regulations.gov* unless otherwise indicated)	ADAMS
Minnesota v. *NRC,* 602 F.2d 412 (D.C. Cir. 1979)		*http://scholar.google.com/scholar_case?case=1554474921785189994 1* Note: This link directs the reader to an unofficial copy of this case.	
Marsh v. *Oregon Natural Resources Council,* 490 U.S. 360, 374 (1989).		*http://scholar.google.com/scholar_case?case=10887052189863115558&q* Note: This link directs the reader to an unofficial copy of this case.	
MD/DC/DE Broadcasters Ass'n v. *FCC,* 236 F.3d 13, 22 (D.C. Cir. 2001).		*http://scholar.google.com/scholar_case?case=4929117322249877509&q=MD/DC/DE+Broadcasters+Ass%27n+v.+FCC&hl=en&as_sdt=20000006* Note: This link directs the reader to an official copy of the case.	
Village of Bensenville v. *Federal Aviation Administration,* 457 F.3d 52, 71–72 (D.C. Cir. 2006).		*http://scholar.google.com/scholar_case?case=6559910666849441800&q=Village+of+Benenville&hl=en&as_sdt=20000003* Note: This link directs the reader to an unofficial copy of the case.	
New York v. *NRC,* 681 F.3d 471 (D.C. Cir. 2012)			ML12191A407.
DOE, Strategy for the Management and Disposal of Used Nuclear Fuel and High-Level Radioactive Waste.	X		ML13011A138.

VII. Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs,'' approved by the Commission on June 20, 1997, and published in the **Federal Register** (62 FR 46517; September 3, 1997), this rule is classified as compatibility ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the AEA or the provisions of Title 10 of the *Code of Federal Regulations,* and although an Agreement State may not adopt program elements reserved to the NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with a particular State's administrative procedure laws, but does not confer regulatory authority on the State.

IX. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this final rule, the NRC is modifying its generic determination on the consideration of environmental impacts of continued storage of spent fuel beyond the licensed life for reactor operations. The NRC is not aware of any voluntary consensus standards that address the subject matter of this final rule. This action does not constitute the establishment of a standard that contains generally applicable requirements.

X. Record of Decision

The NRC has decided to adopt the proposed revision to 10 CFR 51.23 and additional conforming changes. This revision codifies the NRC's analyses and determinations regarding the environmental impacts of continued storage, which are documented in NUREG–2157. The NRC prepared NUREG–2157 in accordance with its NEPA guidance for preparation of an environmental impact statement, from scoping and issuance of the draft to receipt and consideration of public comments in the final generic environmental impact statement. The NRC has concluded that these analyses and determinations meet the NRC's NEPA obligations with respect to continued storage and thereby provide a regulatory basis for this revision to 10 CFR 51.23. Section 51.23(a) adopts into regulation the generic environmental impact determinations of NUREG–2157, and section 51.23(b) provides that the environmental impacts disclosed in NUREG–2157 will be deemed incorporated into future EISs and considered in future EAs, if the impacts of continued storage are relevant to the proposed action, to be considered by the decision-makers in those proceedings.

The NRC's considerations in reaching this decision to adopt a rule are discussed in more detail in the following sections of NUREG–2157: The proposed action in Section 1.4, the purpose of and need for the proposed action in Section 1.5, the no-action alternative and options in Section 1.6, the alternatives considered and eliminated in Section 1.6.2, and the costs and benefits of the proposed action and options under the no action alternative in Chapter 7 [7] with supporting information in Appendix H. These portions of the GEIS inform the public and decision-makers of the environmental implications of this action.

The NRC's rulemaking action provides efficient processes for use in NRC licensing proceedings and reviews to address the environmental impacts of continued storage, consistent with the historic efficiencies provided by prior rules codified at 10 CFR 51.23. In COMSECY–12–0016, the NRC considered a number of alternative options and tracks to provide processes to address these environmental impacts in licensing and to preserve the efficiencies historically provided by 10 CFR 51.23. As documented in the SRM for COMSECY–12–0016, the Commission chose to pursue this combination of a rulemaking to revise 10 CFR 51.23 and a generic environmental impact statement to provide a regulatory basis for that rulemaking. As discussed in Section 1.6 of NUREG–2157, none of the options under the no-action alternative

[7] The inclusion of a cost-benefit analysis for the proposed action in Chapter 7 is consistent with NRC guidance for preparation of an environmental impact statement. The costs of continued storage activities and facilities are disclosed in Chapter 2, while the benefit that accrues from the specific action resulting in the need to store spent fuel (i.e., production of electrical power) will be discussed in the environmental assessment or impact statement prepared in connection with the request for authorization of that action, which will incorporate the impact determinations of NUREG–2157.

considered in the generic environmental impact statement could achieve the NRC's purpose of preserving the efficiency of its licensing proceedings with respect to the analysis of the impacts of continued storage; the only alternative left was no action. In the event of no action, NEPA would nonetheless require the NRC to consider the environmental impacts of continued storage for many future licensing actions. In Section 1.6, the NRC considered options for meeting that obligation without this rulemaking. The adopted rulemaking action and the options under the no action alternative are all administrative in nature and have no significant environmental impacts. Therefore, there is no environmentally preferable alternative and there is no environmental harm caused by this rulemaking action for the NRC to avoid or minimize.

The costs and benefits of this rulemaking and the various options in the event of no action are discussed in Chapter 7 of NUREG–2157. As that discussion indicates, the primary advantage of this rulemaking is that costs are significantly lower than the costs of the NRC's options in the case of no action. The NRC's other options each incur costs associated with repetitive site-specific licensing proceedings for issues related to the environmental impacts of continued storage as well as other potentially large, unquantified costs. The NRC's adoption of the rule is consistent with Council on Environmental Quality (CEQ) guidance regarding efficiency and timeliness under NEPA (77 FR 14473). The NRC acknowledges that some—but not all—members of the public view as benefits that (1) these no action options would provide the opportunity to challenge impact determinations in individual licensing proceedings without a waiver under 10 CFR 2.335 and (2) some proceedings may include site-specific reviews of the environmental impacts of continued storage. However, the NRC concludes that the cost savings and efficiency afforded by this rulemaking outweigh those perceived benefits and notes that the waiver provision in 10 CFR 2.335 would permit challenge to the application of this rule in appropriate circumstances. The NRC has therefore decided to issue this rule to avoid significant and unnecessary costs in conformity with the CEQ policy favoring efficiency in agency environmental reviews.

As this discussion indicates, this rulemaking is procedural in nature and has no significant environmental impacts. In addition, this rulemaking is an amendment to 10 CFR part 51 that relates to procedures for filing and reviewing requests for licensing actions. Therefore, the adoption of this rule qualifies for the categorical exclusion under 10 CFR 51.22(c)(3)(i) from the requirement to prepare an environmental assessment or impact statement. Nonetheless, the NRC has provided substantial information about this action in NUREG–2157, and the NRC is now issuing this record of decision.

XI. Paperwork Reduction Act Statement

This final rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing information collection requirements were approved by the Office of Management and Budget, control number 3150–0021.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid Office of Management and Budget control number.

XII. Regulatory Analysis

A regulatory analysis has not been prepared for this regulation because this regulation does not establish any requirements that would place a burden on licensees. A cost-benefit analysis of the alternative options considered by the NRC was prepared as part of the GEIS (Chapter 7). If continued storage must be assessed in site-specific licensing actions, the primary costs are incurred by the NRC and licensees and license applicants. Licensees and license applicants ultimately shoulder the majority of costs incurred to the NRC in the course of licensing actions through the NRC's license-fee program. Costs also accrue through the NRC's adjudicatory activities, which affect the NRC, licensees, license applicants, and petitioners or participants in the proceeding. The GEIS contains an estimate that it could cost $27.3 million in constant dollars to address continued storage in site-specific proceedings.

XIII. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this rule does not have a significant economic impact on a substantial number of small entities. The final rule modifies the generic determination regarding the consideration of environmental impacts of continued storage. This generic determination provides that the impact determinations from NUREG–2157 will be incorporated into EISs, EAs, or any other analysis prepared in connection with certain actions. The final rule affects only the licensing of nuclear power plants or ISFSIs. Entities seeking or holding NRC licenses for these facilities do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810).

XIV. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31885).

XV. Backfitting and Issue Finality

The NRC has determined that the backfit rules (§§ 50.109, 70.76, 72.62, or 76.76) and the issue finality provisions in 10 CFR part 52 do not apply to this final rule because this amendment does not involve any provisions that will either impose backfits as defined in 10 CFR chapter I, or represent non-compliance with the issue finality of provisions in 10 CFR part 52. Therefore, a backfit analysis is not required for this final rule, and the NRC did not prepare a backfit analysis for this final rule.

XVI. Congressional Review Act

In accordance with the Congressional Review Act of 1996 (5 U.S.C. 801–808), the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of the Office of Management and Budget.

List of Subjects in 10 CFR Part 51

Administrative practice and procedure, Environmental impact statement, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 51.

PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

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

Authority: Atomic Energy Act sec. 161, 1701 (42 U.S.C. 2201, 2297f); Energy Reorganization Act secs. 201, 202, 211 (42 U.S.C. 5841, 5842, 5851); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note). Subpart A also issued under National Environmental Policy Act secs. 102, 104, 105 (42 U.S.C. 4332, 4334, 4335); Pub. L. 95–604, Title II, 92 Stat. 3033–3041; Atomic Energy Act sec. 193 (42 U.S.C. 2243). Sections 51.20, 51.30, 51.60, 51.80. and 51.97 also issued under Nuclear Waste Policy Act secs. 135, 141, 148 (42 U.S.C. 10155, 10161, 10168). Section 51.22 also issued under Atomic Energy Act sec. 274 (42 U.S.C. 2021) and under Nuclear Waste Policy Act sec. 121 (42 U.S.C. 10141). Sections 51.43, 51.67, and 51.109 also issued under Nuclear Waste Policy Act sec. 114(f) (42 U.S.C. 10134(f)).

■ 2. In § 51.23, revise the section heading and paragraphs (a) and (b) to read as follows:

§ 51.23 Environmental impacts of continued storage of spent nuclear fuel beyond the licensed life for operation of a reactor.

(a) The Commission has generically determined that the environmental impacts of continued storage of spent nuclear fuel beyond the licensed life for operation of a reactor are those impacts identified in NUREG–2157, ''Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel.''

(b) The environmental reports described in §§ 51.50, 51.53, and 51.61 are not required to discuss the environmental impacts of spent nuclear fuel storage in a reactor facility storage pool or an ISFSI for the period following the term of the reactor operating license, reactor combined license, or ISFSI license. The impact determinations in NUREG–2157 regarding continued storage shall be deemed incorporated into the environmental impact statements described in §§ 51.75, 51.80(b), 51.95, and 51.97(a). The impact determinations in NUREG–2157 regarding continued storage shall be considered in the environmental assessments described in §§ 51.30(b) and 51.95(d), if the impacts of continued storage of spent fuel are relevant to the proposed action.

* * * * *

■ 3. In § 51.30, revise paragraph (b) to read as follows:

§ 51.30 Environmental assessment.

* * * * *

(b) As stated in § 51.23, the generic impact determinations regarding the continued storage of spent fuel in NUREG–2157 shall be considered in the environmental assessment, if the impacts of continued storage of spent fuel are relevant to the proposed action.

* * * * *

■ 4. In § 51.50, revise paragraphs (a), (b)(2), and (c) introductory text to read as follows:

§ 51.50 Environmental report—construction permit, early site permit, or combined license stage.

(a) *Construction permit stage.* Each applicant for a permit to construct a production or utilization facility covered by § 51.20 shall submit with its application a separate document, entitled ''Applicant's Environmental Report—Construction Permit Stage,'' which shall contain the information specified in §§ 51.45, 51.51, and 51.52. Each environmental report shall identify procedures for reporting and keeping records of environmental data, and any conditions and monitoring requirements for protecting the non-aquatic environment, proposed for possible inclusion in the license as environmental conditions in accordance with § 50.36b of this chapter. As stated in § 51.23, no discussion of the environmental impacts of the continued storage of spent fuel is required in this report.

(b) * * *

(2) The environmental report may address one or more of the environmental effects of construction and operation of a reactor, or reactors, which have design characteristics that fall within the site characteristics and design parameters for the early site permit application, provided however, that the environmental report must address all environmental effects of construction and operation necessary to determine whether there is any obviously superior alternative to the site proposed. The environmental report need not include an assessment of the economic, technical, or other benefits (for example, need for power) and costs of the proposed action or an evaluation of alternative energy sources. As stated in § 51.23, no discussion of the environmental impacts of the continued storage of spent fuel is required in this report.

* * * * *

(c) *Combined license stage.* Each applicant for a combined license shall submit with its application a separate document, entitled ''Applicant's Environmental Report—Combined License Stage.'' Each environmental report shall contain the information specified in §§ 51.45, 51.51, and 51.52, as modified in this paragraph. For other than light-water-cooled nuclear power reactors, the environmental report shall contain the basis for evaluating the contribution of the environmental effects of fuel cycle activities for the nuclear power reactor. Each environmental report shall identify procedures for reporting and keeping records of environmental data, and any conditions and monitoring requirements for protecting the non-aquatic environment, proposed for possible inclusion in the license as environmental conditions in accordance with § 50.36b of this chapter. The combined license environmental report may reference information contained in a final environmental document previously prepared by the NRC staff. As stated in § 51.23, no discussion of the environmental impacts of the continued storage of spent fuel is required in this report.

* * * * *

■ 5. In § 51.53, revise paragraphs (b), (c)(2), and (d) to read as follows:

§ 51.53 Postconstruction environmental reports.

* * * * *

(b) *Operating license stage.* Each applicant for a license to operate a production or utilization facility covered by § 51.20 shall submit with its application a separate document entitled ''Supplement to Applicant's Environmental Report—Operating License Stage,'' which will update ''Applicant's Environmental Report—Construction Permit Stage.'' Unless otherwise required by the Commission, the applicant for an operating license for a nuclear power reactor shall submit this report only in connection with the first licensing action authorizing full-power operation. In this report, the applicant shall discuss the same matters described in §§ 51.45, 51.51, and 51.52, but only to the extent that they differ from those discussed or reflect new information in addition to that discussed in the final environmental impact statement prepared by the Commission in connection with the construction permit. No discussion of need for power, or of alternative energy sources, or of alternative sites for the facility, is required in this report. As stated in § 51.23, no discussion of the environmental impacts of the continued storage of spent fuel is required in this report.

(c) * * *

(2) The report must contain a description of the proposed action, including the applicant's plans to

modify the facility or its administrative control procedures as described in accordance with § 54.21 of this chapter. This report must describe in detail the affected environment around the plant, the modifications directly affecting the environment or any plant effluents, and any planned refurbishment activities. In addition, the applicant shall discuss in this report the environmental impacts of alternatives and any other matters described in § 51.45. The report is not required to include discussion of need for power or the economic costs and economic benefits of the proposed action or of alternatives to the proposed action except insofar as such costs and benefits are either essential for a determination regarding the inclusion of an alternative in the range of alternatives considered or relevant to mitigation. The environmental report need not discuss other issues not related to the environmental effects of the proposed action and the alternatives. As stated in § 51.23, no discussion of the environmental impacts of the continued storage of spent fuel is required in this report.

* * * * *

(d) *Postoperating license stage.* Each applicant for a license amendment authorizing decommissioning activities for a production or utilization facility either for unrestricted use or based on continuing use restrictions applicable to the site; and each applicant for a license amendment approving a license termination plan or decommissioning plan under § 50.82 of this chapter either for unrestricted use or based on continuing use restrictions applicable to the site; and each applicant for a license or license amendment to store spent fuel at a nuclear power reactor after expiration of the operating license for the nuclear power reactor shall submit with its application a separate document, entitled ''Supplement to Applicant's Environmental Report—Post Operating License Stage,'' which will update ''Applicant's Environmental Report—Operating License Stage,'' as appropriate, to reflect any new information or significant environmental change associated with the applicant's proposed decommissioning activities or with the applicant's proposed activities with respect to the planned storage of spent fuel. As stated in § 51.23, no discussion of the environmental impacts of the continued storage of spent fuel is required in this report. The '''Supplement to Applicant's Environmental Report—Post Operating License Stage''' may incorporate by reference any information contained in '''Applicants Environmental Report—Construction Permit Stage.''

■ 6. Revise § 51.61 to read as follows:

§ 51.61 Environmental report—independent spent fuel storage installation (ISFSI) or monitored retrievable storage installation (MRS) license.

Each applicant for issuance of a license for storage of spent fuel in an independent spent fuel storage installation (ISFSI) or for the storage of spent fuel and high-level radioactive waste in a monitored retrievable storage installation (MRS) pursuant to part 72 of this chapter shall submit with its application to: ATTN: Document Control Desk, Director, Office of Nuclear Material Safety and Safeguards, a separate document entitled ''Applicant's Environmental Report—ISFSI License'' or ''Applicant's Environmental Report—MRS License,'' as appropriate. If the applicant is the U.S. Department of Energy, the environmental report may be in the form of either an environmental impact statement or an environmental assessment, as appropriate. The environmental report shall contain the information specified in § 51.45 and shall address the siting evaluation factors contained in subpart E of part 72 of this chapter. As stated in § 51.23, no discussion of the environmental impacts of the continued storage of spent fuel in an ISFSI is required in this report.

■ 7. In § 51.75, revise paragraphs (a), (b), and (c) introductory text to read as follows:

§ 51.75 Draft environmental impact statement—construction permit, early site permit, or combined license.

(a) *Construction permit stage.* A draft environmental impact statement relating to issuance of a construction permit for a production or utilization facility will be prepared in accordance with the procedures and measures described in §§ 51.70, 51.71, 51.72, and 51.73. The contribution of the environmental effects of the uranium fuel cycle activities specified in § 51.51 shall be evaluated on the basis of impact values set forth in Table S–3, Table of Uranium Fuel Cycle Environmental Data, which shall be set out in the draft environmental impact statement. With the exception of radon-222 and technetium-99 releases, no further discussion of fuel cycle release values and other numerical data that appear explicitly in the table shall be required.[5] The impact statement shall take account of dose commitments and health effects from fuel cycle effluents set forth in Table S–3 and shall in addition take account of economic, socioeconomic, and possible cumulative impacts and other fuel cycle impacts as may reasonably appear significant. As stated in § 51.23, the generic impact determinations regarding the continued storage of spent fuel in NUREG–2157 shall be deemed incorporated into the environmental impact statement.

(b) *Early site permit stage.* A draft environmental impact statement relating to issuance of an early site permit for a production or utilization facility will be prepared in accordance with the procedures and measures described in §§ 51.70, 51.71, 51.72, 51.73, and this section. The contribution of the environmental effects of the uranium fuel cycle activities specified in § 51.51 shall be evaluated on the basis of impact values set forth in Table S–3, Table of Uranium Fuel Cycle Environmental Data, which shall be set out in the draft environmental impact statement. With the exception of radon-222 and technetium-99 releases, no further discussion of fuel cycle release values and other numerical data that appear explicitly in the table shall be required.[5] The impact statement shall take account of dose commitments and health effects from fuel cycle effluents set forth in Table S–3 and shall in addition take account of economic, socioeconomic, and possible cumulative impacts and other fuel cycle impacts as may reasonably appear significant. As stated in § 51.23, the generic impact determinations regarding the continued storage of spent fuel in NUREG–2157 shall be deemed incorporated into the environmental impact statement. The draft environmental impact statement must include an evaluation of alternative sites to determine whether there is any obviously superior alternative to the site proposed. The draft environmental impact statement must also include an evaluation of the environmental effects of construction and operation of a reactor, or reactors, which have design characteristics that fall within the site characteristics and design parameters for the early site permit application, but only to the extent addressed in the early site permit environmental report or otherwise necessary to determine whether there is any obviously superior alternative to the site proposed. The draft environmental impact statement must not include an

[5] Values for releases of Rn-222 and Tc-99 are not given in the table. The amount and significance of Rn-222 releases from the fuel cycle and Tc-99 releases from waste management or reprocessing activities shall be considered in the draft environmental impact statement and may be the subject of litigation in individual licensing proceedings.

assessment of the economic, technical, or other benefits (for example, need for power) and costs of the proposed action or an evaluation of alternative energy sources, unless these matters are addressed in the early site permit environmental report.

(c) *Combined license stage.* A draft environmental impact statement relating to issuance of a combined license that does not reference an early site permit will be prepared in accordance with the procedures and measures described in §§ 51.70, 51.71, 51.72, and 51.73. The contribution of the environmental effects of the uranium fuel cycle activities specified in § 51.51 shall be evaluated on the basis of impact values set forth in Table S–3, Table of Uranium Fuel Cycle Environmental Data, which shall be set out in the draft environmental impact statement. With the exception of radon-222 and technetium-99 releases, no further discussion of fuel cycle release values and other numerical data that appear explicitly in the table shall be required.[5] The impact statement shall take account of dose commitments and health effects from fuel cycle effluents set forth in Table S–3 and shall in addition take account of economic, socioeconomic, and possible cumulative impacts and other fuel cycle impacts as may reasonably appear significant. As stated in § 51.23, the generic impact determinations regarding the continued storage of spent fuel in NUREG–2157 shall be deemed incorporated into the environmental impact statement.

* * * * *

■ 8. In § 51.80, revise paragraph (b)(1) to read as follows:

§ 51.80 Draft environmental impact statement—materials license.

* * * * *

(b)(1) *Independent spent fuel storage installation (ISFSI).* As stated in § 51.23, the generic impact determinations regarding the continued storage of spent fuel in NUREG–2157 shall be deemed incorporated in the environmental impact statement.

* * * * *

■ 9. In § 51.95, revise paragraphs (b), (c)(2), and (d) to read as follows:

§ 51.95 Postconstruction environmental impact statements.

* * * * *

(b) *Initial operating license stage.* In connection with the issuance of an operating license for a production or utilization facility, the NRC staff will prepare a supplement to the final environmental impact statement on the construction permit for that facility, which will update the prior environmental review. The supplement will only cover matters that differ from the final environmental impact statement or that reflect significant new information concerning matters discussed in the final environmental impact statement. Unless otherwise determined by the Commission, a supplement on the operation of a nuclear power plant will not include a discussion of need for power, or of alternative energy sources, or of alternative sites, and will only be prepared in connection with the first licensing action authorizing full-power operation. As stated in § 51.23, the generic impact determinations regarding the continued storage of spent fuel in NUREG–2157 shall be deemed incorporated into the environmental impact statement.

(c) * * *

(2) The supplemental environmental impact statement for license renewal is not required to include discussion of need for power or the economic costs and economic benefits of the proposed action or of alternatives to the proposed action except insofar as such benefits and costs are either essential for a determination regarding the inclusion of an alternative in the range of alternatives considered or relevant to mitigation. In addition, the supplemental environmental impact statement prepared at the license renewal stage need not discuss other issues not related to the environmental effects of the proposed action and the alternatives. The analysis of alternatives in the supplemental environmental impact statement should be limited to the environmental impacts of such alternatives and should otherwise be prepared in accordance with § 51.71 and appendix A to subpart A of this part. As stated in § 51.23, the generic impact determinations regarding the continued storage of spent fuel in NUREG–2157 shall be deemed incorporated into the supplemental environmental impact statement.

* * * * *

(d) *Postoperating license stage.* In connection with the amendment of an operating or combined license authorizing decommissioning activities at a production or utilization facility covered by § 51.20, either for unrestricted use or based on continuing use restrictions applicable to the site, or with the issuance, amendment or renewal of a license to store spent fuel at a nuclear power reactor after expiration of the operating or combined license for the nuclear power reactor, the NRC staff will prepare a supplemental environmental impact statement for the post operating or post combined license stage or an environmental assessment, as appropriate, which will update the prior environmental documentation prepared by the NRC for compliance with NEPA under the provisions of this part. The supplement or assessment may incorporate by reference any information contained in the final environmental impact statement—for the operating or combined license stage, as appropriate, or in the records of decision prepared in connection with the early site permit, construction permit, operating license, or combined license for that facility. The supplement will include a request for comments as provided in § 51.73. As stated in § 51.23, the generic impact determinations regarding the continued storage of spent fuel in NUREG–2157 shall be deemed incorporated into the supplemental environmental impact statement or shall be considered in the environmental assessment, if the impacts of continued storage of spent fuel are applicable to the proposed action.

■ 10. In § 51.97, revise paragraph (a) to read as follows:

§ 51.97 Final environmental impact statement—materials license.

(a) *Independent spent fuel storage installation (ISFSI).* As stated in § 51.23, the generic impact determinations regarding the continued storage of spent fuel in NUREG–2157 shall be deemed incorporated into the environmental impact statement.

* * * * *

■ 11. In appendix B to subpart A of part 51, footnote 7 is removed from Table B–1 and the entries for ''Onsite storage of spent nuclear fuel'' and ''Offsite radiological impacts of spent nuclear fuel and high-level waste disposal'' under the ''Waste Management'' section of the table are revised to read as follows:

Appendix B to Subpart A—Environmental Effect of Renewing the Operating License of a Nuclear Power Plant

* * * * *

TABLE B–1—SUMMARY OF FINDINGS ON NEPA ISSUES FOR LICENSE RENEWAL OF NUCLEAR POWER PLANTS [1]

Issue	Category [2]	Finding [3]
*	*	* * * * *
Waste Management		
*	*	* * * * *
Onsite storage of spent nuclear fuel.	1	During the license renewal term, SMALL. The expected increase in the volume of spent nuclear fuel from an additional 20 years of operation can be safely accommodated onsite during the license renewal term with small environmental impacts through dry or pool storage at all plants. For the period after the licensed life for reactor operations, the impacts of onsite storage of spent nuclear fuel during the continued storage period are discussed in NUREG–2157 and as stated in § 51.23(b), shall be deemed incorporated into this issue.
Offsite radiological impacts of spent nuclear fuel and high-level waste disposal.	1	For the high-level waste and spent-fuel disposal component of the fuel cycle, the EPA established a dose limit of 0.15 mSv (15 millirem) per year for the first 10,000 years and 1.0 mSv (100 millirem) per year between 10,000 years and 1 million years for offsite releases of radionuclides at the proposed repository at Yucca Mountain, Nevada. The Commission concludes that the impacts would not be sufficiently large to require the NEPA conclusion, for any plant, that the option of extended operation under 10 CFR part 54 should be eliminated. Accordingly, while the Commission has not assigned a single level of significance for the impacts of spent fuel and high level waste disposal, this issue is considered Category 1.
*	*	* * * * *

[1] Data supporting this table are contained in NUREG–1437, Revision 1, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants'' (June 2013).

[2] The numerical entries in this column are based on the following category definitions:

Category 1: For the issue, the analysis reported in the Generic Environmental Impact Statement has shown:

(1) The environmental impacts associated with the issue have been determined to apply either to all plants or, for some issues, to plants having a specific type of cooling system or other specified plant or site characteristic;

(2) A single significance level (i.e., small, moderate, or large) has been assigned to the impacts (except for Offsite radiological impacts—collective impacts from other than the disposal of spent fuel and high-level waste); and

(3) Mitigation of adverse impacts associated with the issue has been considered in the analysis, and it has been determined that additional plant-specific mitigation measures are not likely to be sufficiently beneficial to warrant implementation.

The generic analysis of the issue may be adopted in each plant-specific review.

Category 2: For the issue, the analysis reported in the Generic Environmental Impact Statement has shown that one or more of the criteria of Category 1 cannot be met, and therefore additional plant-specific review is required.

[3] The impact findings in this column are based on the definitions of three significance levels. Unless the significance level is identified as beneficial, the impact is adverse, or in the case of ''small,'' may be negligible. The definitions of significance follow:

SMALL—For the issue, environmental effects are not detectable or are so minor that they will neither destabilize nor noticeably alter any important attribute of the resource. For the purposes of assessing radiological impacts, the Commission has concluded that those impacts that do not exceed permissible levels in the Commission's regulations are considered small as the term is used in this table.

MODERATE—For the issue, environmental effects are sufficient to alter noticeably, but not to destabilize, important attributes of the resource.

LARGE—For the issue, environmental effects are clearly noticeable and are sufficient to destabilize important attributes of the resource.

For issues where probability is a key consideration (i.e., accident consequences), probability was a factor in determining significance.

* * * * *

Dated at Rockville, Maryland, this 11th day of September, 2014.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2014–22215 Filed 9–18–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

[NRC–2012–0246]

RIN 3150–AJ20

Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel

AGENCY: Nuclear Regulatory Commission.

ACTION: Generic environmental impact statement.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) has published the final generic environmental impact statement (GEIS), NUREG–2157, ''Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel.'' NUREG–2157 addresses the environmental impacts of continued storage of spent nuclear fuel beyond the licensed life for operations of a reactor and provides a regulatory basis for the NRC's final rule on the environmental impacts of continued storage of spent nuclear fuel beyond the licensed life for operations of a reactor.

DATES: The generic environmental impact statement is available September 19, 2014.

ADDRESSES: Please refer to Docket ID NRC–2012–0246 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0246. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. The two volumes of the final GEIS are available electronically in ADAMS under Accession Nos. ML14196A105 and ML14196A107.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

In addition, the final GEIS may be accessed online at the NRC's Web page at: *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/*.

FOR FURTHER INFORMATION CONTACT: Sarah Lopas, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–287–0675, email: *Sarah.Lopas@nrc.gov*.

SUPPLEMENTARY INFORMATION: In response to a ruling by the Court of Appeals for the District of Columbia Circuit (*New York* v. *NRC,* 681 F.3d 471) that vacated the NRC's former Waste Confidence rule (§ 51.23 of Title 10 of the *Code of Federal Regulations* (10 CFR)), the NRC developed a revised rule supported by a GEIS. NUREG–2157, ''Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel'' provides a regulatory basis for the final rule and generically determines the environmental impacts of continued storage of spent fuel beyond the licensed life for operation of a reactor (continued storage). Concurrently with this document, the NRC is publishing the final rule, ''Continued Storage of Spent Nuclear Fuel'' (RIN 3150–AJ20; NRC–2012–0246), in the Rules section of this issue of the **Federal Register**. The final rule codifies the results of the analyses in NUREG–2157 in 10 CFR 51.23 and makes other conforming changes to 10 CFR part 51.

The NRC prepared the GEIS to satisfy its National Environmental Policy Act obligations regarding the environmental impacts of continued storage. A notice of intent to prepare a draft environmental impact statement and conduct scoping was published in the **Federal Register** on October 25, 2012 (77 FR 65137). The draft GEIS notice of availability and public meetings, and request for comment, was published on September 13, 2013 (78 FR 56621). Additional draft GEIS public meeting notices were published on September 19, 2013 (78 FR 57538); October 29, 2013 (78 FR 64412; 78 FR 64413); and November 4, 2013 (78 FR 65903). An extension to the comment period was published on November 7, 2013 (78 FR 66858). The purpose of this notice is to inform the public that the final GEIS is available for public inspection.

Dated at Rockville, Maryland, this 10th day of September, 2014.

For the Nuclear Regulatory Commission.

Paul Michalak,

Acting Director, Waste Confidence Directorate, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2014–22250 Filed 9–18–14; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0144; Directorate Identifier 2013–NM–232–AD; Amendment 39–17970; AD 2014–19–02]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc. Model DHC–8–400, –401, and –402 airplanes. This AD was prompted by reports of rudder bearings falling out of the fore rudder hinge bracket during assembly. This AD requires a proof load test and detailed inspections; and installation of a new bearing, reaming, or repair of the bearing if necessary. We are issuing this AD to detect and correct improper bearing installation, which could result in abnormal wear and potential increased freeplay in the rudder system, and resultant airframe vibration, leading to compromise of the flutter margins of the airplane.

DATES: This AD becomes effective October 24, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 24, 2014.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0144* 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 Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.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: Ricardo Garcia, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7331; fax 516–794–5531.

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 certain Bombardier Model DHC–8–400, –401, and –402 airplanes. The NPRM published in the **Federal Register** on March 25, 2014 (79 FR 16245).

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2013–34, dated November 1, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier Model DHC–8–400, –401, and –402 airplanes. The MCAI states:

It was reported that rudder bearings were falling out of the fore rudder hinge bracket during assembly. Investigation revealed the root cause as improper application of the adhesive compound and the lack of application of sealant during the installation of the rudder bearings into the fore rudder hinge bracket. The improper bearing installation, if not corrected, could result in abnormal wear and could potentially increase the freeplay in the rudder system. This may result in airframe vibration, eventually compromising the flutter-margins of the aeroplane.

This [Canadian] AD mandates the inspection, and rectification as required, of the fore rudder bearings in the hinge bracket assembly.

Required actions include a proof load test for slippage and freeplay. Related investigative actions include a detailed inspection of a certain bearing for damage, corrosion, and dimension conformity; and a detailed inspection of the fitting bore of the fore rudder hinge bracket for wear, damage, corrosion, and dimension conformity. Corrective actions include installation of a new bearing, reaming, or repair of the bearing. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0144-0002.*

Revised Service Information

Since the NPRM (79 FR 16245, March 25, 2014) was issued, Bombardier has issued Service Bulletin 84–27–44, Revision 'B', dated February 11, 2014. Among other things, Bombardier Service Bulletin 84–27–44, Revision 'B', dated February 11, 2014, clarifies a note, and corrects a task number for the operational check of the rudder control system.

We have revised this AD to include Bombardier Service Bulletin 84–27–44, Revision 'B', dated February 11, 2014, as an additional source of appropriate service information. We also have revised paragraph (i) of this AD to include Bombardier Service Bulletin 84–27–44, Revision 'A,' dated June 10, 2009, as service information that can be used for credit for previous accomplishment of certain actions required by this AD.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM (79 FR 16245, March 25, 2014) and the FAA's response to each comment.

Request To Change Airworthy Product Paragraph

Horizon Air requested that we revise the Airworthy Product paragraph, i.e., paragraph (j)(2) of the NPRM (79 FR 16245, March 25, 2014), to either remove or change the sentence that states, in part, that ''repair approvals must specifically refer to this AD.''

Horizon Air reasoned that the sentence in question places an unnecessary regulatory burden on operators with airplanes that are built in Canada. Horizon Air explained that since TCCA is the State holding Design Authority for Bombardier, Inc. Model DHC–8–400 series airplanes, any repairs created by Bombardier would have to be in compliance with the TCCA AD, and the repair would specifically refer to the TCCA AD.

The commenter added that the bilateral agreement between Canada and the United States accepts documents approved by TCCA as meeting the requirements for FAA-approval. The commenter questioned whether the U.S. AD number is necessary when the repair is approved by TCCA and the repair specifically refers to the Canadian AD, and asked what value is added by specifically referring to the U.S. AD if the repair meets the approval requirements of the State holding the Design Authority. Horizon Air noted that the language in paragraph (j)(2) of the NPRM (79 FR 16245, March 25, 2014) would force operators that incorporated a repair method prior to the effective date of the AD to go back to the manufacturer and request a revision to the repair method to add the U.S. AD number, even if the repair method referenced the TCCA AD.

Horizon Air also explained that it discussed the statement concerning repair approvals with Bombardier Aerospace, Toronto. The Engineering Department management of Bombardier Aerospace, Toronto, stated they are under the TCCA umbrella, and they can refer only to a TCCA AD on their repair drawings. If this requirement is retained in the U.S. AD as written, it would require an operator to somehow have a repair drawing revised to include the U.S. AD number. This is a difficult task, considering the manufacturer's stated position that they currently do not include the U.S. AD number, and they have no internal processes to add it. The statement in the U.S. AD should allow the TCCA AD number as an equivalent to the U.S. AD number.

Horizon Air also noted that an operator could pursue an alternative method of compliance (AMOC) but that would add additional time and cost to compliance. The additional time required for an AMOC will most likely delay returning the airplanes to service, and if the AMOC is needed on a weekend or federal holiday, the return to service would take even longer.

We concur with the commenter's request to remove from this AD the requirement that repair approvals must specifically refer to 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 16245, March 25, 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.

A related comment was provided for an NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013), which applies to certain Airbus airplane models. 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 that 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, TCCA, or Bombardier, Inc.'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 afforded previously 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 may have been issued some time before the FAA AD. Therefore, the DOA may 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 from this AD the requirement that the DAH-provided repair specifically refer to this AD. Before adopting such a requirement in the future, 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 an AD. Any such requirements will be adopted through the normal AD rulemaking process, including notice-and-comment procedures, when appropriate.

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

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (79 FR 16245, March 25, 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 16245, March 25, 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 78 airplanes of U.S. registry.

We also estimate that it will take about 7 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 $0 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $46,410, or $595 per product.

In addition, we estimate that any necessary follow-on actions will take about 8 work-hours and require parts costing $155, for a cost of $835 per product. We have no way of determining the number of aircraft that might need this action.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify 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-2014-0144;* 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):

2014–19–02 Bombardier, Inc.: Amendment 39–17970. Docket No. FAA–2014–0144; Directorate Identifier 2013–NM–232–AD.

(a) Effective Date

This AD becomes effective October 24, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model DHC–8–400, –401, and –402 airplanes, certificated in any category, serial numbers 4166 through 4175, inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Reason

This AD was prompted by reports of rudder bearings falling out of the fore rudder hinge bracket during assembly. We are issuing this AD to detect and correct improper bearing installation, which could result in abnormal wear and potential increased freeplay in the rudder system, and resultant airframe vibration, leading to compromise of the flutter margins of the airplane.

(f) Compliance

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

(g) Proof Load Test

Within 2,000 flight hours or 12 months after the effective date of this AD, whichever occurs first, do a proof load test for slippage and freeplay (relative movement between the bearing and fitting), in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–27–44, Revision 'B,' dated February 11, 2014. If no slippage or freeplay is detected during the proof load test required by this paragraph, before further flight, identify the area with a marker and apply sealant if missing, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–27–44, Revision 'B,' dated February 11, 2014; and after identifying the area with a marker and applying sealant, no further action is required by this AD.

(h) Rectification

If any slippage or freeplay (relative movement between the bearing and fitting) is detected during the test required by paragraph (g) of this AD, before further flight, do the actions specified in paragraphs (h)(1) and (h)(2) of this AD.

(1) Do a detailed inspection of bearing DSC8–6 for damage, corrosion, and dimension conformity, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–27–44, Revision 'B,' dated February 11, 2014. If damage, corrosion, or dimension non-conformity is found, before further flight, install new bearing DSC8–6, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–27–44, Revision 'B,' dated February 11, 2014.

(2) Do a detailed inspection of the fitting bore of the fore rudder hinge bracket assembly for wear, damage, corrosion, and dimension conformity, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–27–44, Revision 'B,' dated February 11, 2014.

(i) If damage, corrosion, or dimension non-conformity is found during the inspection required by paragraph (h)(2) of this AD, before further flight, ream the inside diameter, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–27–44, Revision 'B,' dated February 11, 2014.

(ii) If bore wear or damage beyond 0.8140-inch diameter is found during the inspection required by paragraph (h)(2) of this AD, before further flight, repair 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.

(i) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 84–27–44, dated April 13, 2009; or Bombardier Service Bulletin 84–27–44, Revision 'A,' dated June 10, 2009; which are not incorporated by reference in this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York 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 New York 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.

(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 TCCA; or Bombardier, Inc.'s TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2013–34, dated November 1, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0144-0002.*

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

(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) Bombardier Service Bulletin 84–27–44, Revision 'B,' dated February 11, 2014. (ii) Reserved.

(3) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com*; Internet *http://www.bombardier.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 September 8, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–22153 Filed 9–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0765]

Drawbridge Operation Regulation; Milford Haven Inlet, Hudgins, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from drawbridge regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the State Route 223 Bridge (Gwynn's Island) across the Milford Haven Inlet, mile 0.1, at Hudgins, VA. This deviation allows the bridge to remain in the closed-to-navigation position to facilitate rehabilitation efforts. The bridge will open to navigation for a period not to exceed two hours once every seven days.

DATES: This deviation is effective from 7 a.m., on October 1, 2014 to 7 a.m., on November 1, 2014.

ADDRESSES: The docket for this deviation, [USCG–2014–0765] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mrs. Jessica Shea, Bridge Management Specialist, Fifth Coast Guard District, telephone (757) 398–6422. Email *jessica.c.shea2@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: The bridge owner, the Virginia Department of Transportation (VDOT), is conducting maintenance on the State Route 223 swing bridge over Milford Haven Inlet near Hudgins, VA. VDOT requested deviation from the requirement to open on signal as required by 33 CFR 117.5 in order to facilitate the rehabilitation work. The deviation period commences at 7 a.m., on October 1, 2014 and goes through 7 a.m., on November 1, 2014. During the deviation period, the construction work requires 24-hour periods where the bridge will be unable to open to navigation. However, once a week, the bridge will be able to open to navigation for a period not to exceed two hours. Due to the nature of the work and the time necessary to dismantle the equipment, a definitive schedule of openings could not be created. The date and time of the weekly opening will be announced through a Coast Guard Broadcast Notice to Mariners at least 48 hours before the opening. The opening duration and frequency were established through coordination meetings with the local waterway users during August 2014. The vertical clearance of the swing bridge in the closed-to-navigation position is 12 feet at mean high water. Vessels able to pass through the bridge in the closed position may do so at any time and are advised to proceed with caution. During this temporary deviation, the southern approach to Gwynn's Island by Sandy Point, VA can be used as an alternate route for vessels able to transit in water depths of two feet. The bridge will not be able to open for emergencies during the closure periods.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: September 3, 2014.

Waverly W. Gregory, Jr.,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2014–22434 Filed 9–18–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2011–0916; FRL–9916–14–Region 10]

Approval and Promulgation of Implementation Plans; Alaska

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Alaska State Implementation Plan (SIP). The State of Alaska (State) submitted these revisions on February 13, 2008, December 11, 2009, April 14, 2010, November 29, 2010, October 21, 2011, December 10, 2012, and January 28, 2013, to meet Clean Air Act (CAA) requirements. These revisions update the Alaska SIP to reflect changes to the National Ambient Air Quality Standards (NAAQS), area designations, and Federal permitting requirements under section 110 of the CAA. In addition, the submitted changes revise and clarify Alaska permitting rules, and remove provisions that are duplicated in other regulations. Although the EPA is approving most of the submitted revisions, the EPA is not approving certain provisions which are inappropriate for SIP approval. The EPA is also correcting the SIP to remove specific provisions that were previously approved into the SIP in error. The corrections remove provisions that implement other requirements of the CAA, are not required by section 110 of the CAA, and were not relied on by the State to demonstrate attainment or maintenance of the NAAQS or to meet other specific requirements of section 110 of the CAA. Finally, the EPA is deferring action on certain portions of the submissions, including those that adopt by reference updates to the Federal nonattainment major new source review requirements, because those revisions will be addressed in separate actions.

DATES: This final rule is effective on October 20, 2014.

ADDRESSES: The EPA has established a docket for this action under Docket Identification No. EPA–R10–OAR–2011–0916. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at EPA Region 10, Office of Air, Waste, and Toxics, AWT–107, 1200 Sixth Avenue, Seattle, Washington 98101. The EPA requests that you contact the person 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 Federal holidays.

FOR FURTHER INFORMATION CONTACT: Donna Deneen at (206) 553–6706, *deneen.donna@epa.gov,* or by using the above EPA, Region 10 address.

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

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IV. Statutory and Executive Order Reviews

I. Background

The EPA proposed action on numerous revisions to the Alaska SIP in a notice of proposed rulemaking published on May 5, 2014 (79 FR 25533). These submitted revisions update the Alaska SIP to reflect changes to the NAAQS, area designations, and Federal permitting requirements under section 110 of the CAA. In addition, the submitted changes revise and clarify Alaska permitting rules, and remove provisions that are duplicated in other regulations. The EPA proposed to approve most of the submitted revisions except for certain provisions which are inappropriate for SIP approval because they implement other provisions of the CAA, are not required by section 110 of the CAA and were not relied on by the State to demonstrate attainment or maintenance of the NAAQS or to meet other specific requirements of section 110 of the CAA. In addition, the EPA proposed to correct the SIP to remove specific provisions that were previously approved into the SIP in error because they implement other provisions of the CAA and were not relied on by the State to demonstrate attainment or maintenance of the NAAQS or to meet other specific requirements of section 110 of the CAA. Finally, the EPA proposed to defer action on certain portions of the submissions, including those that adopt by reference updates to the Federal nonattainment major new source review requirements, because those revisions will be addressed in separate actions. More detail regarding the relevant CAA requirements, the revisions, and the EPA's reasons for this action were provided in the proposal. See 79 FR 25533. The public comment period for this proposed rule ended on June 4, 2014.

II. Response to Comments

The EPA received one comment letter on the May 5, 2014, proposed rule. The following summarizes the issues raised by the commenter and provides the EPA's responses.

Comment: The Alaska Department of Conservation (ADEC) states that it supports the EPA's proposed approval of revisions to the Alaska SIP, but that it has comments on a few specific aspects of the EPA's proposal.

Response: The EPA acknowledges ADEC's support of this action and provides responses to ADEC's other comments below.

Comment: ADEC disagrees with the EPA's proposal not to approve 18 AAC 50.345(l), which is a general condition required to be included in all permits and gives ADEC the discretion to approve an extension of a source test deadline established by ADEC. ADEC states that it is unreasonable to expect it to revise a permit and get the EPA's approval when ADEC cannot know a permittee will need an extension of source testing requirements until the need arises. The flexibility provided by 18 AAC 50.345(l), ADEC maintains, is needed to account for unique logistical situations, such as when a permittee is unable to get a source test contractor on site by the permit deadline due to such issues as contractor shortages or extreme-weather-related scheduling problems. ADEC explains that when it receives a request for an extension, the extensions are granted and the source test is required to be conducted as expeditiously as possible and that only a dozen or so such requests are received annually. ADEC concludes by requesting that the EPA approve 18 AAC 50.345(l).

Response: The EPA previously disapproved 18 AAC 50.345(l) on August 14, 2007 (72 FR 45378), and the State has not submitted a revision to 18 AAC 50.345(l) since then. As a result, no revision to 18 AAC 50.345(l) is before the EPA for action at this time. The EPA acknowledges the May 5, 2014, proposal may not have been clear that a revision to 18 AAC 50.345(l) was not before us. The intent of the EPA's statement that it was not approving 18 AAC 50.345(l) was to avoid any implication that, by approving the submitted revisions to other parts of 18 AAC 50.345, it was also approving any revisions to 18 AAC 50.345(l) as none had been submitted.

In any event, the EPA continues to believe that 18 AAC 50.345(l) is not appropriate for SIP approval for the reasons previously identified by the EPA in its prior action. See 72 FR 5232 (February 5, 2007). The regulation itself contains no criterion that bounds ADEC's discretion to grant an extension of the source test deadline, such as the maximum time for an extension or the circumstances under which an extension will be granted. See, e.g., 40 CFR 60.8 (provisions authorizing an extension of a source test deadline for ''force majeure'' events). Unless it is possible at the time of the approval of a director's discretion-type provision into a SIP to anticipate and analyze all of the impacts of the potential exercise of the director's discretion, such provisions functionally could allow *de facto* revisions of the approved provisions of the SIP without complying with the process for SIP revisions required by the CAA. See 78 FR 12460, 12485–86 (February 22, 2013).

The EPA understands the goal of 18 AAC 50.345(l) is to provide flexibility where an extension to a source test deadline established by ADEC is needed to account for unique logistical situations. If requested by Alaska, the EPA will work with the State to develop revised rules that are consistent with ADEC's goal and also consistent with the Clean Air Act and implementing regulations.

Comment: ADEC objects to the proposed disapproval of 18 AAC 50.346(a). ADEC describes this provision as dealing with the adoption by reference and use of Standard Operating Permit Condition II—Air Pollution Prohibited. ADEC states that it believes the EPA may have incorrectly interpreted the conditions in Standard Operating Permit Condition II, arguing that Condition II.2.1 addresses situations in which emissions present a potential threat to human health and safety and require that such emissions be reported and that actual impacts are, therefore, monitored. ADEC also argues that Condition II.2.1 and II.2.2 require reporting and investigation of emissions that are believed to have caused or are causing violation of Condition II.1, and Condition II.2.4 requires permittees to keep records, all of which constitute monitoring for compliance. ADEC believes that the EPA's disapproval addresses only the language found in Condition II.2.3, which does require corrective action after a violation has occurred. ADEC requests that the EPA either approve 18 AAC 50.346(a) or provide additional explanation for why it is not approvable.

Response: Region 10 continues to believe that 18 AAC 50.346(a) is not appropriate for SIP approval. We raised concerns in our previous action at 72 FR 5238 (February 5, 2007) that Standard Permit Condition II, which is incorporated into 18 AAC 50.346(a), only requires corrective action after a violation of 18 AAC 50.110 has occurred. Based on the comment by ADEC, we now agree that Standard Permit Condition II requires other ongoing monitoring, recordkeeping and reporting (MRR) in addition to the corrective action provision. However, the standard condition also authorizes ADEC to use something other than the

Standard Permit Condition if ''the Department determines that emission unit or stationary source specific conditions more adequately meet the requirements of 18 AAC 50.'' As such, it reserves to ADEC authority to impose case-by-case MRR for the underlying SIP requirement (18 AAC 50.110) as an alternative to Standard Permit Condition II through the permitting process with no bounds on the exercise of that discretion. Although authority to impose appropriate MRR is an important part of the permitting process, approving into the SIP a specified MRR requirement for a SIP air quality control requirement such as 18 AAC 50.110 that also authorizes the permitting authority unbounded discretion to impose alternative requirements is inconsistent with the process for SIP revisions required by the CAA. See 78 FR 12460, 12485–86 (February 22, 2013). Therefore, EPA continues to believe that it cannot approve 18 AAC 50.346(a) into the SIP. The EPA notes, however, that, ADEC has authority under its SIP-approved permitting program to determine whether this Standard Condition or some alternative MRR is appropriate for 18 AAC 50.110 in issuing a permit for a particular emission unit or source. Once such a permit is issued under the SIP, the MRR would then be Federally-enforceable whether it is the Standard Permit Condition or a case-by-case alternative.

Comment: ADEC disagrees with the EPA's proposal to not approve 18 AAC 50.542(b)(2), which allows ADEC to require an owner/operator to submit an application online on the grounds that ADEC's online system has not yet been certified by the EPA as Cross-Media Electronic Reporting Rule (CROMERR) compliant. ADEC states that it is continuing to work in good faith with the EPA to meet CROMERR requirements and that it is inappropriate to not approve 18 AAC 50.542(b)(2) because (1) ADEC has an existing system, which has been acknowledged as such by the EPA; (2) ADEC has submitted a CROMERR application; (3) CROMERR regulations have no provisions where an existing system cannot be used; and (4) Meeting CROMERR requirements is a challenging endeavor that has been so difficult in some cases that the EPA has been working to create services to help programs to meet CROMERR. ADEC continues that it is close to being able to formally resubmit its Air Online Services (AOS) program under CROMERR and that, until then, ADEC should be able to continue to utilize all of its tools and resources to not only meet Federal requirements but to also efficiently and effectively process permits. Therefore, ADEC requests that, although ADEC's online system has not yet been certified as CROMERR compliant, the EPA continue to work with the State to approve the program as expeditiously as possible.

Response: The provision at 18 AAC 50.542(b)(2) allows ADEC to require the owner/operator to submit permit applications online. The EPA previously disapproved this provision on August 14, 2007 (72 FR 45378), and the State has not submitted a revision to 18 AAC 50.542(b)(2) since then. As a result no revision to 18 AAC 50.542(b)(2) is before the EPA for action at this time. The EPA acknowledges the May 5, 2014, proposal may not have been clear that a revision to 18 AAC 50.542(b)(2) was not before us. The intent of the EPA's statement that it was not approving 18 AAC 50.542(b)(2) was to avoid any implication that, by approving submitted revisions to other parts of 18 AAC 50.542, it was also approving any revisions to 18 AAC 50.542(b)(2) as none had been submitted.

In any event, the EPA continues to believe that 18 AAC 50.542(b)(2) is not appropriate for SIP approval for the reasons previously identified by the EPA in its prior action. See 72 FR 5232 (February 5, 2007). We acknowledge ADEC's continuing efforts to meet CROMERR requirements and will continue to assist the State in developing an approvable program for electronic recordkeeping and reporting under CROMERR, taking into account ADEC's concerns. Once ADEC receives CROMERR approval and resubmits 18 AAC 50.542(b)(2) for SIP approval, we will take appropriate action on this provision.

III. Final Action

Provisions the EPA Is Approving and Incorporating by Reference

Consistent with the discussion and analysis in the proposed rulemaking published on May 5, 2014, and in this action, the EPA is approving into the SIP at 40 CFR part 52, subpart C, the Alaska laws and regulations listed in the table below.

ALASKA PROVISIONS FOR APPROVAL AND INCORPORATION BY REFERENCE

State citation	Title/Subject	State effective date	Explanation
18 AAC 50.010	Ambient Air Quality Standards	1/4/2013	except (7) and (8).
18 AAC 50.015	Air Quality Designations, Classifications, and Control Regions.	12/9/2010	
18 AAC 50.020	Baseline Dates and Maximum Allowable Increases.	1/4/2013	
18 AAC 50.035	Documents, Procedures, and Methods Adopted by Reference.	1/4/2013	except (a)(6) and (b)(4).
18 AAC 50.040	Federal Standards Adopted by Reference	1/4/2013, 12/3/2005	except (a), (b), (c), (d), (e), (g), (h)(21), (i)(7), (i)(8), (i)(9), (j), and (k).
18 AAC 50.050	Incinerator Emission Standards	7/25/2008	
18 AAC 50.055	Industrial Processes and Fuel-Burning Equipment.	12/9/2010	except (d)(2)(B).
18 AAC 50.215	Ambient Air Quality Analysis Methods	1/4/2013, 10/1/2004	except (a)(4).
18 AAC 50.220	Enforceable Test Methods	9/14/2012	except (c)(1)(A), (B), (C), and (c)(2).
18 AAC 50.225	Owner-Requested Limits	9/14/2012	
18 AAC 50.302	Construction Permits	9/14/2012	except (a)(3).
18 AAC 50.306	Prevention of Significant Deterioration (PSD) Permits.	1/4/2013	
18 AAC 50.345	Construction, Minor and Operating Permits: Standard Permit Conditions.	9/14/2012	except (b), (c)(3), and (l).
18 AAC 50.400	Permit Administration Fees	9/14/2012, 7/25/2008	except (a), (b), (c), (d), (f), (j)(1) through (18), (j)(21) through (23), and (k).

ALASKA PROVISIONS FOR APPROVAL AND INCORPORATION BY REFERENCE—Continued

State citation	Title/Subject	State effective date	Explanation
18 AAC 50.502	Minor Permits for Air Quality Protection	1/4/2013	
18 AAC 50.508	Minor Permits Requested by the Owner or Operator.	12/9/2010	
18 AAC 50.510	Minor Permit: 18 AAC 50.510 Minor Permit—Title V Permit Interface.	12/9/2010	
18 AAC 50.540	Minor Permit: Application	1/4/2013	
18 AAC 50.542	Minor Permit: Review and Issuance	1/4/2013	except (b)(2).
18 AAC 50.544	Minor Permits: Content	12/9/2010	
18 AAC 50.546	Minor Permits: Revisions	7/25/2008	except (b).
18 AAC 50.990	Definitions	9/14/2012	except (92) as it relates to 18 AAC 50.040(i).
Alaska Statute Sec. 46.14.550.	Responsibilities of Owner and Operator; Agent for Service.	1/4/2013	
Alaska Statute Sec. 46.14.990.	Definitions	1/4/2013	except (1)–(3), (6), (7), (9)–(14), (19)–(26), and (28).

In addition, the EPA finds that the statutes submitted by the State in its SIP revisions, with the exceptions discussed in the May 5, 2014, proposal, continue to provide the State with adequate legal authority to carry out the requirements of the Alaska SIP. In general, the EPA is not incorporating by reference the statutory provisions submitted by the State to avoid potential conflict with the EPA's independent authorities.

Provisions the EPA Is Not Approving

For the reasons explained in the proposed rule published on May 5, 2014, we are not approving the following provisions:

- 18 AAC 50.010 ''Ambient Air Quality Standards,'' paragraphs (7) and (8).
- 18 AAC 50.030 ''State Air Quality Control Plan.''
- 18 AAC 50.035 ''Documents, Procedures, and Methods Adopted by Reference,'' subparagraphs (a)(6) and (b)(4).
- 18 AAC 50.040 ''Federal Standards Adopted by Reference,'' paragraphs (a), (b), (c), (d), (e), (g), (j) and (k), and subparagraph (h)(21).
- 18 AAC 50.055 ''Industrial Processes and Fuel-Burning Equipment,'' subparagraph (d)(2)(B).
- 18 AAC 50.215 ''Ambient Air Quality Analysis Methods,'' subparagraph (a)(4).
- 18 AAC 50.220 ''Enforceable Test Methods,'' subparagraph (c)(2).
- 18 AAC 50.326 ''Title V Operating Permits, paragraph (e).
- 18 AAC 50.345 ''Construction, Minor and Operating Permits: Standard Permit Conditions,'' paragraph (b), (c)(3), and (l).
- 18 AAC 50.346 ''Construction and operating permits: other permit conditions,'' paragraphs (a), (b) and (c).
- 18 AAC 50.400 ''Permit Administration Fees,'' paragraph (a).
- 18 AAC 50.542 ''Minor Permit: Review and Issuance,'' subparagraph (b)(2).
- 18 AAC 50.546 ''Minor Permits: Revisions,'' paragraph (b).
- AS 46.14.540 ''Authority of Department in Cases of Emergency.''

Provisions the EPA Is Removing From the SIP or From Incorporation by Reference

Under the authority of CAA section 110(k)(6), we are correcting the SIP to remove specific provisions from the Alaska SIP that were previously approved into the SIP in error. The provisions listed below implement other requirements of the CAA, were not required to be submitted under section 110 of the CAA, and were not relied on by the State to demonstrate attainment or maintenance of the NAAQS or to meet other specific requirements of section 110 of the Act. They are therefore not appropriate for approval into the SIP: 18 AAC 50.220(c)(1)(A), (B), (C) and 18 AAC 50.302(a)(3). Because these provisions are not required under the CAA, our action to remove these provisions, which results in a disapproval of these provisions, does not make the SIP deficient.

We are also removing the incorporation by reference of AS 46.14.510(b). This statutory provision continues to be in the SIP, but is no longer necessary to be incorporated by reference because the provision is addressed by the incorporation by reference of regulations elsewhere in the Federally-approved SIP (at 18 AAC 52.015(a), (b), 52.990(66)(B) and 52.100(d)(3)).

Provisions the EPA is Taking No Action On

Finally, as detailed in the proposed rulemaking published on May 5, 2014, we are taking no action on the following Alaska provisions: 18 AAC 50.040 ''Federal Standards Adopted by Reference'' paragraph (i) (adoption by reference of Federal nonattainment NSR regulations at 40 CFR 51.165); 18 AAC 50 Article 7 ''Conformity;'' and AS 46.14.560 ''Unavoidable Malfunctions and Emergencies.'' We intend to address these changes in separate actions.

IV. 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, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this 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 the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and the 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. The 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 November 18, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

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

Dated: August 15, 2014.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

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 C—Alaska

■ 2. In § 52.70, the table in paragraph (c) is amended by:

■ a. Revising entries 18 AAC 50.010 through 18 AAC 50.020.

■ b. Revising entries 18 AAC 50.035, 18 AAC 50.040, 18 AAC 50.050, and 18 AAC 50.055.

■ c. Revising entries 18 AAC 50.215 through 18 AAC 50.225.

■ d. Revising entries 18 AAC 50.302, 18 AAC 50.306, and 18 AAC 50.345.

■ e. Adding, in numerical order, the subheading ''18 AAC 50 Article 4. User Fees'' and entry ''18 AAC 50.400''.

■ f. Revising entries 18 AAC 50.502 and 18 AAC 50.508.

■ g. Adding in numerical order entry 18 AAC 50.510.

■ h. Revising entries 18 AAC 50.540 through 18 AAC 50.546.

■ i. Revising entry 18 AAC 50.990.

■ j. Removing entry Sec. 46.14.510.

■ k. Revising entries Sec. 46.14.550 and Sec. 46.14.990.

The revisions and additions read as follows:

§ 52.70 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED ALASKA REGULATIONS AND STATUTES

State citation	Title/Subject	State effective date	EPA Approval date	Explanations
Alaska Administrative Code Title 18 Environmental Conservation, Chapter 50 Air Quality Control (18 AAC 50)				
*	*	*	*	*
18 AAC 50.010	Ambient Air Quality Standards.	1/4/13	9/19/14 [Insert **Federal Register** citation].	except (7) and (8).
18 AAC 50.015	Air Quality Designations, Classifications, and Control Regions.	12/9/10	9/19/14 [Insert **Federal Register** citation].	
18 AAC 50.020	Baseline Dates and Maximum Allowable Increases.	1/4/13	9/19/14 [Insert **Federal Register** citation].	
*	*	*	*	*
18 AAC 50.035	Documents, Procedures and Methods Adopted by Reference.	1/4/13	9/19/14 [Insert **Federal Register** citation].	except (a)(6) and (b)(4).
18 AAC 50.040	Federal Standards Adopted by Reference.	1/4/13; 12/3/05	9/19/14 [Insert **Federal Register** citation]; 72 FR 45378 (8/14/07)	except (a), (b), (c), (d), (e), (g), (h)(21), (i)(7), (i)(8), (i)(9), (j), and (k).

EPA-APPROVED ALASKA REGULATIONS AND STATUTES—Continued

State citation	Title/Subject	State effective date	EPA Approval date	Explanations
*	* *		* *	* *
18 AAC 50.050	Incinerator Emission Standards.	7/25/08	9/19/14 [Insert **Federal Register** citation].	
18 AAC 50.055	Industrial Processes and Fuel-Burning Equipment.	12/9/10	9/19/14 [Insert **Federal Register** citation].	except (d)(2)(B).
*	* *		* *	* *
18 AAC 50.215	Ambient Air Quality Analysis Methods.	1/4/13; 10/1/04	9/19/14 [Insert **Federal Register** citation]; 72 FR 45378 (8/14/07)	except (a)(4)
18 AAC 50.220	Enforceable Test Methods.	9/14/12	9/19/14 [Insert **Federal Register** citation].	except (c)(1)(A), (B), (C), and (c)(2).
18 AAC 50.225	Owner-Requested Limits.	9/14/12	9/19/14 [Insert **Federal Register** citation].	
*	* *		* *	* *
18 AAC 50.302	Construction Permits	9/14/12	9/19/14 [Insert **Federal Register** citation].	except (a)(3).
18 AAC 50.306	Prevention of Significant Deterioration (PSD) Permits.	1/4/13	9/19/14 [Insert **Federal Register** citation].	
*	* *		* *	* *
18 AAC 50.345	Construction, Minor and Operating Permits: Standard Permit Conditions.	9/14/12	9/19/14 [Insert **Federal Register** citation].	except (b), (c)(3), and (l).
18 AAC 50 Article 4. User Fees				
18 AAC 50.400	Permit Administration Fees.	9/4/12	9/19/14 [Insert **Federal Register** citation].	except (a), (b), (c), (d), (f), (j)(1) through (18), (j)(21) through (23), and (k).
*	* *		* *	* *
18 AAC 50.502	Minor Permits for Air Quality Protection.	1/4/13	9/19/14 [Insert **Federal Register** citation].	
18 AAC 50.508	Minor Permits Requested by the Owner or Operator.	12/9/10	9/19/14 [Insert **Federal Register** citation].	
18 AAC 50.510	Minor Permit: 18 AAC 50.510 Minor Permit—Title V Permit Interface.	12/9/10	9/19/14 [Insert **Federal Register** citation].	
18 AAC 50.540	Minor Permit: Application.	1/4/13	9/19/14 [Insert **Federal Register** citation].	
18 AAC 50.542	Minor Permit: Review and Issuance.	1/4/13	9/19/14 [Insert **Federal Register** citation].	except (b)(2).
18 AAC 50.544	Minor Permits: Content	12/9/10	9/19/14 [Insert **Federal Register** citation].	
18 AAC 50.546	Minor Permits: Revisions.	7/15/08	9/19/14 [Insert **Federal Register** citation].	except (b).
*	* *		* *	* *
18 AAC 50.990	Definitions	9/14/12	9/19/14 [Insert **Federal Register** citation].	except (92) as it relates to 18 AAC 50.040(i).

EPA-APPROVED ALASKA REGULATIONS AND STATUTES—Continued

State citation	Title/Subject	State effective date	EPA Approval date	Explanations
*	*	*	*	*
Alaska Statutes				
*	*	*	*	*
Title 46 Water, Air, Energy, and Environmental Conservation, Chapter 46.14. Air Quality Control				
Sec. 46.14.550	Responsibilities of Owner and Operator.	1/4/13	9/19/14 [Insert **Federal Register** citation].	
*	*	*	*	*
Sec. 46.14.990	Definitions	1/4/13	9/19/14 [Insert **Federal Register** citation].	except (1) (3), (6), (7), (9) (14), (19) (26), and (28).

* * * * *

■ 3. Section 52.96 is amended by revising paragraph (a) to read as follows:

§ 52.96 Significant deterioration of air quality.

(a) The State of Alaska Department of Environmental Conservation Air Quality Control Regulations are approved as meeting the requirements of 40 CFR 51.166 and this part for preventing significant deterioration of air quality. The specific provisions approved are: 18 AAC 50.010 except (7) and (8), 18 AAC 50.020, 18 AAC 50.035 (a)(4) and (5) and (b)(1) (but only with respect to the incorporation by reference of 40 CFR part 50, appendix P), 18 AAC 50.040(h) except (7) and (9), and 18 AAC 50.306 as in effect on January 4, 2013; 18 AAC 50.215 except (a)(4) and (d), 18 AAC 50.345 except (b), (c)(3) and (l), and 18 AAC 50.990 except (92) as it relates to 18 AAC 50.040(i)) as in effect on September 14, 2012; 18 AAC 50.015 as in effect on December 9, 2010; 18 AAC 50.040 (7) and (9) as in effect on December 3, 2005; and 18 AAC 50.215(d) and 18 AAC 50.250 as in effect on October 1, 2004.

* * * * *

[FR Doc. 2014–22165 Filed 9–18–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 122

[EPA–HQ–OW–2009–1019; FRL–9916–33–OW]

RIN 2040–AC84

National Pollutant Discharge Elimination System (NPDES): Use of Sufficiently Sensitive Test Methods for Permit Applications and Reporting; Correction

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: The Environmental Protection Agency (EPA) is correcting a final rule that appeared in the **Federal Register** of August 19, 2014 (79 FR 49001). The rule finalized minor amendments to its Clean Water Act (CWA) regulations to codify that under the National Pollutant Discharge Elimination System (NPDES) program, in general, permit applicants must use ''sufficiently sensitive'' analytical test methods when completing an NPDES permit application and the Director must prescribe that only ''sufficiently sensitive'' methods be used for analyses of pollutants or pollutant parameters under an NPDES permit.

DATES: Effective September 18, 2014.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Kathryn Kelley, Water Permits Division, Office of Wastewater Management (4203M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–7004, email address: *kelley.kathryn@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA is correcting two citations that are contained within the text of two ''Notes'' in the final rule, as set forth below. Section 553(b)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. Here, EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment because notice and opportunity for comment are unnecessary. The corrections being made in this rule are technical and very minor. These corrections concern two citations that were inadvertently stated incorrectly in the text of the final rule published on Aug. 19, 2014. The preamble to that rule makes clear that EPA intended the two Notes that contain these citations to discuss how method minimum levels (MLs) are determined under any of the subparagraphs to 122.21(e)(3)(i) or 122.44(i)(1)(iv)(A) (see 79 FR 49004–05 and 49010), which is the effect of today's corrections to these two citations. Accordingly, EPA does not believe that conducting a notice and comment process on today's corrections would inform the public of agency action that may be of interest.

Under Section 553(d) of the Administrative Procedure Act, publication of a rule must be made at least 30 days before its effective date, except where the agency provides otherwise for good cause. EPA finds that there is good cause for making this rule

effective on September 18, 2014, which is less than 30 days after its publication. Waiting 30 days before making this rule effective is not necessary. Since these are only minor corrections to citations, we do not believe they will be of public interest (as discussed above) and the regulated community does not need 30 days to prepare to comply with them. At the same time, because the August 19, 2014 sufficiently sensitive methods rule becomes effective on September 18, 2014, making these minor corrections to that final rule effective on the same date will avoid any regulatory confusion that might occur from making them effective on a different date.

In FR Doc. 2014–19265 appearing on page 49001 in the **Federal Register** of Tuesday, August 19, 2014, the following corrections are made:

§ 122.21 [Corrected]

■ 1. On page 49013, in the first column, in § 122.21 Application for a permit (applicable to State programs, see § 123.25), the note heading: ''**Note to paragraph (e)(3)(i)(C):**'' is corrected to read ''**Note to paragraph (e)(3)(i):**''

§ 122.44 [Corrected]

■ 2. On page 49013, in the second column, in § 122.44 Establishing limitations, standards, and other permit conditions (applicable to State NPDES program, see § 123.25), the note heading: ''**Note to paragraph (i)(1)(iv)(A)(*2*):**'' is corrected to read ''**Note to paragraph (i)(1)(iv)(A):**''

Dated: September 12, 2014.

Gina McCarthy,

Administrator.

[FR Doc. 2014–22289 Filed 9–18–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2014–0332; FRL–9915–82]

2-Propenoic acid, butyl ester, polymer With 1,6-diisocyanatohexane, N-(hydroxymethyl)-2-methyl-2-propenamide and 2-propenenitrile; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of 2-propenoic acid, butyl ester, polymer with 1,6-diisocyanatohexane, *N*-(hydroxymethyl)-2-methyl-2-propenamide and 2-propenenitrile (CAS Reg. No. 1469998–09–1) when used as an inert ingredient in a pesticide formulation. BASF Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of 2-propenoic acid, butyl ester, polymer with 1,6-diisocyanatohexane, *N*-(hydroxymethyl)-2-methyl-2-propenamide and 2-propenenitrile on food or feed commodities.

DATES: This regulation is effective September 19, 2014. Objections and requests for hearings must be received on or before November 18, 2014, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2014–0332, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT: Lois Rossi, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7090 email address: *RDFRNotices@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl*.

C. Can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2014–0332 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before November 18, 2014. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2014–0332, by one of the following methods.

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html*.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets*.

II. Background and Statutory Findings

In the **Federal Register** of August 1, 2014 (79 FR 44729) (FRL–9911–67), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (IN–10700) filed by BASF Corporation, 100 Park Avenue, Florham Park, NJ 07932. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of 2-propenoic acid, butyl ester, polymer with 1,6-diisocyanatohexane, *N*-(hydroxymethyl)-2-methyl-2-propenamide and 2-propenenitrile (CAS Reg. No. 1469998–09–1). That document included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. The Agency did not receive any comments.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and use in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption from the requirement of a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . .'' and specifies factors EPA is to consider in establishing an exemption.

III. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). 2-propenoic acid, butyl ester, polymer with 1,6-diisocyanatohexane, *N*-(hydroxymethyl)-2-methyl-2-propenamide and 2-propenenitrile conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers:

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. The polymer does contain as an integral part of its composition the atomic elements carbon, hydrogen, and oxygen.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

7. The polymer does not contain certain perfluoroalkyl moieties consisting of a CF3- or longer chain length as specified in 40 CFR 723.250(d)(6).

Additionally, the polymer also meets as required the following exemption criteria specified in 40 CFR 723.250(e).

8. The polymer's number average MW of 100,000 is greater than or equal to 10,000 daltons. The polymer contains less than 2% oligomeric material below MW 500 and less than 5% oligomeric material below MW 1,000.

Thus, 2-propenoic acid, butyl ester, polymer with 1,6-diisocyanatohexane, *N*-(hydroxymethyl)-2-methyl-2-propenamide and 2-propenenitrile meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to 2-propenoic acid, butyl ester, polymer with 1,6-diisocyanatohexane, *N*-(hydroxymethyl)-2-methyl-2-propenamide and 2-propenenitrile.

IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that 2-propenoic acid, butyl ester, polymer with 1,6-diisocyanatohexane, *N*-(hydroxymethyl)-2-methyl-2-propenamide and 2-propenenitrile could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of 2-propenoic acid, butyl ester, polymer with 1,6-diisocyanatohexane, *N*-(hydroxymethyl)-2-methyl-2-propenamide and 2-propenenitrile is 100,000 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since 2-propenoic acid, butyl ester, polymer with 1,6-diisocyanatohexane, *N*-(hydroxymethyl)-2-methyl-2-propenamide and 2-propenenitrile conform to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a

tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found 2-propenoic acid, butyl ester, polymer with 1,6-diisocyanatohexane, *N*-(hydroxymethyl)-2-methyl-2-propenamide and 2-propenenitrile to share a common mechanism of toxicity with any other substances, and 2-propenoic acid, butyl ester, polymer with 1,6-diisocyanatohexane, *N*-(hydroxymethyl)-2-methyl-2-propenamide and 2-propenenitrile does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that 2-propenoic acid, butyl ester, polymer with 1,6-diisocyanatohexane, *N*-(hydroxymethyl)-2-methyl-2-propenamide and 2-propenenitrile does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative*.

VI. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of 2-propenoic acid, butyl ester, polymer with 1,6-diisocyanatohexane, *N*-(hydroxymethyl)-2-methyl-2-propenamide and 2-propenenitrile, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of 2-propenoic acid, butyl ester, polymer with 1,6-diisocyanatohexane, *N*-(hydroxymethyl)-2-methyl-2-propenamide and 2-propenenitrile.

VIII. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for 2-propenoic acid, butyl ester, polymer with 1,6-diisocyanatohexane, *N*-(hydroxymethyl)-2-methyl-2-propenamide and 2-propenenitrile.

IX. Conclusion

Accordingly, EPA finds that exempting residues of 2-propenoic acid, butyl ester, polymer with 1,6-diisocyanatohexane, *N*-(hydroxymethyl)-2-methyl-2-propenamide and 2-propenenitrile from the requirement of a tolerance will be safe.

X. Statutory and Executive Order Reviews

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these rules from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes, or otherwise have any unique impacts on local governments. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

Although this action does not require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994), EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. As such, to the extent that information is publicly

available or was submitted in comments to EPA, the Agency considered whether groups or segments of the population, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

XI. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 10, 2014.

G. Jeffrey Herndon,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.960, alphabetically add the following polymer to the table to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

Polymer	CAS No.
* * *	* *
2-Propenoic acid, butyl ester, polymer with 1,6-diisocyanatohexane, N-(hydroxymethyl)-2-methyl-2-propenamide and 2-propenenitrile, minimum number average molecular weight (in amu), 100,000	1469998–09–1
* * *	* *

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[FR Doc. 2014–22287 Filed 9–18–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 204, 213, 217, 225, and 249

Defense Federal Acquisition Regulation Supplement; Technical Amendments

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement (DFARS) to provide needed editorial changes.

DATES: Effective September 19, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Manuel Quinones, Defense Acquisition Regulations System, OUSD(AT&L)DPAP(DARS), Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6088; facsimile 571–372–6094.

SUPPLEMENTARY INFORMATION: This final rule amends the DFARS as follows:

1. Directs contracting officers to additional procedures and guidance by adding references at 204.403 and 213.301 to DFARS PGI 204.403(2) and 213.301, respectively.

2. Amends 217.7802 by correcting punctuation at 217.7802(b)(1) and directing contracting officers to additional procedures and guidance at DFARS PGI 217.7802(b)(1)(iii).

3. Corrects the reference to additional procedures and guidance at 225.7703–3 for DFARS PGI 225.7703–3.

4. Amends 249.7000(a)(1) by replacing two telephone numbers with a central email address.

List of Subjects in 48 CFR Parts 204, 213, 217, 225, and 249

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 204, 213, 217, 225, and 249 are amended as follows:

■ 1. The authority citation for 48 CFR parts 204, 213, 217, and 225 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 204—ADMINISTRATIVE MATTERS

■ 2. Revise section 204.403 to read as follows:

204.403 Responsibilities of contracting officers.

(1) Contracting officers shall ensure that solicitations comply with PGI 204.403(1).

(2) For additional guidance on determining a project to be fundamental research in accordance with 252.204–7000(a)(3), see PGI 204.403(2).

PART 213—SIMPLIFIED ACQUISITION PROCEDURES

■ 3. Amend section 213.301 by adding the following introductory text:

213.301 Governmentwide commercial purchase card.

Follow the procedures at PGI 213.301 for authorizing, establishing, and operating a Governmentwide commercial purchase card program.

* * * * *

PART 217—SPECIAL CONTRACTING METHODS

■ 4. Amend section 217.7802 by revising paragraph (b)(1) to read as follows:

217.7802 Policy.

* * * * *

(b) * * *

(1) Evaluating whether using a non-DoD contract for the acquisition is in the best interest of DoD. Factors to be considered include:

(i) Satisfying customer requirements.

(ii) Schedule.

(iii) Cost effectiveness (taking into account discounts and fees). In order to ensure awareness of the total cost of fees associated with use of a non-DoD contract, follow the procedures at PGI 217.7802(b)(1)(iii).

(iv) Contract administration (including oversight).

* * * * *

PART 225—FOREIGN ACQUISITION

■ 5. Amend section 225.7703–3 by revising paragraph (d) to read as follows:

225.7703–3 Evaluating offers.

* * * * *

(d) For acquisitions in support of the United States Central Command (USCENTCOM), United States European Command (USEUCOM), United States Africa Command (USAFRICOM), United States Southern Command (USSOUTHCOM), or United States Pacific Command (USPACOM) theater of operations, see PGI 225.7703–3.

PART 249—TERMINATION OF CONTRACTS

■ 6. The authority citation for 48 CFR part 249 is revised to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

249.7000 [Amended]

■ 7. Amend section 249.7000, in paragraph (a)(1), by removing ''(703) 697–9351, DSN 227–9351'' and adding ''*osd.pentagon.ousd-atl.mbx.cpic@mail.mil''* in its place.

[FR Doc. 2014–22370 Filed 9–18–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

48 CFR Parts 904, 952 and 970

RIN 1991–AB85

Acquisition Regulation: Access to and Ownership of Records

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is publishing a final rule amending the Department of Energy Acquisition Regulation (DEAR) to ensure the access to and ownership of records generated during contract performance for its contractors and subcontractors performing potentially hazardous work and clarifies management, retention and disposal of records after contract termination. This final rule: Ensures that records generated on individuals that meet the requirements of the Privacy Act are operated and maintained as Privacy Act SORs; clarifies that Privacy Act SORs are Government-owned records, not contractor-owned, even though they are created by the contractor; ensures the inclusion of this clause in contracts where work activities could involve exposure to potentially hazardous substances; and, ensures that DOE has consistent records maintenance, retention, and disposal requirements in accordance with Federal laws, regulations and DOE Directives and updates thereto.

DATES: *Effective Date:* October 20, 2014.

FOR FURTHER INFORMATION CONTACT: Jason Taylor, U.S. Department of Energy, Office of Procurement, MA–61, 1000 Independence Avenue SW., Washington, DC 20585; 202–287–1560 or *jason.taylor@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background
II. Section-by-Section Discussion of Comments and Rule Provisions
III. Section-by-Section Analysis
IV. Procedural Requirements
A. Review Under Executive Order 12866
B. Review Under Executive Order 12988
C. Review Under the Regulatory Flexibility Act
D. Review Under the Paperwork Reduction Act
E. Review Under the National Environmental Policy Act
F. Review Under Executive Order 13132
G. Review Under the Unfunded Mandates Reform Act of 1995
H. Review Under the Treasury and General Government Appropriations Act, 1999
I. Review Under Executive Order 13211
J. Review Under the Treasury and General Government Appropriations Act, 2001
K. Congressional Notification
L. Approval by the Office of the Secretary of Energy

I. Background

Historically, DOE's Management and Operating (M&O) contractors were tasked with performing functions that could involve exposure to radioactive and other hazardous materials. Because of the possible long-term effects of exposure, DOE contractors and subcontractors must create and maintain records documenting the potentially hazardous work activities performed by their personnel. For example, the *Occupational Radiation Protection* program at 10 Code of Federal Regulations (CFR) Part 835 and the *Chronic Beryllium Disease Prevention Program* at 10 CFR Part 850 both require the creation, maintenance and disposition of records on contractor and subcontractor personnel. These records include, but are not limited to: Certain personnel records, medical, and occupational safety and health records. DOE's M&O contractors already provide for DOE ownership and/or access to these types of records. However, DOE now also utilizes other types of contracts to perform many agency functions. Therefore, DOE is making this revised clause applicable to both M&O as well as non-M&O contracts and subcontracts to ensure that records are managed and retained in accordance with Federal laws (including the Privacy Act), applicable regulations and DOE requirements. To provide relevant information for processing of claims under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA; 42 U.S.C. 7385s–10) and for other similar issues, DOE must ensure government-ownership of not only records documenting agency functions, but records documenting potential exposure to hazardous substances. These records are needed for processing claims and provide documentation that otherwise protects the financial and legal obligations of both individuals and the Government. These records include, but are not limited to: Personnel, medical and exposure records listed as privacy act systems of records, facility, environmental and other project related records, as well as, occupational safety and health records. Personnel records are also needed to allow DOE to identify and contact individuals in the future for participation in the DOE Federal Worker Medical Screening Program (FWP), to comply with other, future records requests, and to meet the requirement to retain the records in accordance with Federal laws and regulations.

The National Archives and Records Administration's (NARA) regulation at 36 Code of Regulations (CFR), Chapter XII, Subchapter B, *''Records Management''* requires agencies to ensure contractors performing agency functions create and maintain records that document these activities and specify government ownership of documents within the contract. For the Department of Energy, Title 42 U.S.C. 7101(b)(1) defines function as any duty, obligation, power, authority, responsibility, right, privilege and activity. Performance of those functions is defined in 42 U.S.C. 7101(b)(2). Throughout its history, DOE has been tasked by Congress to perform certain functions related to research, operations, and environmental clean-up that could cause potential exposure to hazardous substances.

On January 9, 2009, DOE published a System of Records Notice (SORN) in the **Federal Register** (74 FR 994) describing DOE's Privacy Act systems of records (SOR) in accordance with the Privacy Act of 1974 (5 U.S.C. 552a). For example, the SOR for EEOICPA files is located at DOE–10 (74 FR 1,008), and includes such records as: Employment records, exposure records, medical reports, personnel security questionnaires, safety records or other incident reports. The Personnel Medical Records SOR at DOE–33 (74 FR 1,302) includes the following types of records: Medical histories on contractor employees resulting from medical examination, medical records of periodic physical examinations and psychological testing, records on the results of workplace and medical monitoring of individuals for exposure to chemical and physical agents (not covered in DOE–35), and related work history data, including drug testing information and results, contractor employee-completed health questionnaires not resulting from a medical examination. Lastly, the Personnel Radiation Exposure Records

at DOE–35 (74 FR 1,037) includes: DOE contractor personnel and other individuals' radiation exposure records, social security numbers, and other records, in connection with registries of uranium, transuranic, or other elements encountered in the nuclear industry.

Privacy Act SORs are defined within the Privacy Act (5 U.S.C. 552a(a)(5)) as a group of records under the control of an agency from which information is retrieved by the name of the individual, some identifying number, symbol or other particular identifying characteristic. The authority of DOE to assert Government ownership over Privacy Act SORs, whether generated by a prime or subcontractor, is set forth in 44 U.S.C. 2104(a). This statute requires the National Records and Archives Administration (NARA) to prescribe such regulations as deemed necessary to effectuate their functions, and the head of each executive agency to issue such orders and directives deemed necessary to carry out those regulations. In 36 CFR 1222.32(b), NARA's Records Management regulations expressly state that all data created for Government use and delivered to, or falling under the legal control of, the Government are Federal records. This includes records created/received by contractors that document the work specified within the contract and are generated or received during the performance of the contract.

DOE's M&O contracts currently provide for DOE ownership and/or access to these types of records because of the inclusion of the *Access to and Ownership of Records* clause at 48 CFR 970.5204–3, and specifically 970.5204–3(b)(1), which excepts Privacy Act SORs from the list of contractor-owned records, even though they are contractor-generated records. Additionally, in accordance with 10 CFR Part 835, *Occupational Radiation Protection* and 10 CFR Part 850, *Chronic Beryllium Disease Prevention Program,* certain DOE contractors are required to create and maintain individual exposure and workplace monitoring records that document exposure to these potentially hazardous substances during work activities performed by their personnel. These regulatory provisions currently require turnover of the exposure records to DOE upon cessation of work activities, ensuring DOE's control over these records on a long-term basis in accordance with Federal laws and regulations.

DOE contracting officers generally insert the clauses at 48 CFR 52.224–1 and 52.224–1 when the design, development, or operations of a system of records on individuals is required and when the contract specifically identifies the system(s) of records that must be managed in accordance with the Privacy Act. The contract will contain a clause that describes which Privacy Act SORs, by records series, are specifically required to be managed as a Privacy Act SOR. By amending the *Access to and Ownership of Records* clause at 48 CFR 970.5204–3(b) and (b)(1), and requiring inclusion of the clause in certain non-M&O contracts, DOE is ensuring that not only are Privacy Act SORs consistently and properly classified as Government-owned under 48 CFR 970.5204–3(a) turned over to DOE on contract termination for maintenance and disposition, but records generated/received in the performance of the contract, other than those set forth within the contract as Contractor-owned, are managed and dispositioned by DOE on contract termination.

This final rule stresses the importance of complete and accurate documentation and proper recordkeeping to adequately document Government-funded activities, preserve institutional memory, protect the legal and financial rights of the Government, preserve applicable worker, facility, and environmental records, and ensure availability of those records when they are needed. The rule requires inclusion of the *Access to and Ownership of Records* clause at 48 CFR 970.5204–3 in contracts, not just M&O contracts, when the contract contains the *Integration of Environment, Safety, and Health into Work Planning and Execution* (ISM) clause at 970.5223–1, as prescribed by 952.223–71, or the *Radiation Protection and Nuclear Criticality* clause at 952.223–72. The revisions also add clarifying language to ensure consistent maintenance, retention, and disposal of records in accordance with NARA's Records Management regulations.

Further, this rule clarifies the distinction between contractor-owned and Government-owned records and emphasizes contractor and subcontractor records management responsibilities consistent with NARA's Records Management regulations, including maintaining certain records as DOE Privacy Act SORs (48 CFR 52.224–2). This rule also ensures preservation and appropriate ownership of personnel, facility, occupational safety and health, environmental, medical, facility and other records generated during contract performance. A notice of proposed rulemaking was published at 75 FR 28772 on May 24, 2010 and twenty-one (21) comments were received from six (6) individuals/entities.

II. Section-by-Section Discussion of Comments and Rule Provisions.

DOE carefully reviewed the proposed regulation in light of the comments received during the public comment period and has attempted to address those requesting clarification or further detail through either revisions to the text of the final rule or through clarification in this preamble discussion.

This ''Response to Comments'' addresses issues raised by commenters during the public comment period. Every comment has been analyzed and the following discussion provides responses organized by issue.

Scope and Reach of Rule

Two commenters expressed concern that the rule is potentially overreaching and overbroad which has negative consequences. They also asserted that it may place undue burden on small businesses.

DOE disagrees. The only change to the *Access to and Ownership of Records* clause at 48 CFR 970.5204–3 is to clarify that records series specified within the contract as Privacy Act SORs are Government-owned records even if the records are contractor-generated. The revisions do not expand the breadth of the *Access to and Ownership of Records* clause. The revisions do, however, expand the applicability of the clause to certain non-M&O contracts and subcontractors when that contract contains the ISM clause at 970.5223–1, as prescribed by 952.223–71, or the radiation protection and nuclear criticality clause at 952.223–72. The revisions are made to ensure records generated on individuals that meet the requirements of the Privacy Act are maintained in a Privacy Act SOR as required under existing laws and regulations, as opposed to any new procedure established by this regulation. The revisions also add clarifying language to ensure consistent maintenance, retention and disposal of records in accordance with NARA's Records Management regulations. DOE believes that the additional requirements of this rule will have a minimal burden on small businesses.

Possible Freedom of Information Act (FOIA) Implications

Two commenters suggested that revising the ownership of medical/health related records to make them Government-owned would subject such records to requests by third parties under FOIA. The commenters recommend that DOE abandon the requirement that contractor-owned

records be maintained as a Privacy Act SOR.

DOE agrees that medical/health related records created, operated and maintained as a Privacy Act SOR will no longer be contractor-owned but rather Government-owned records. As such, they will be subject to the FOIA, which does permit release of Government-owned records to FOIA requestors. However, records requested under FOIA are subject to certain exemptions set forth in 5 U.S.C. 552(b). In particular, FOIA Exemption 6, 5 U.S.C. 552(b)(6), permits withholding personnel, medical and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Unless otherwise required by law, DOE will adhere to the statutory requirements of the FOIA and the Privacy Act to protect contractor and subcontractor employee personal, medical/health-related and similar records from release and disclosure.

Privacy Act SOR (Government vs. Contractor)

One commenter expressed concern that the change to 48 CFR 970.5204–3 would allow private ''personnel'' records of private sector, non-government employees, previously not held by the Government, to be turned over to the Government. Several other commenters expressed concern that converting medical records into a Privacy Act SOR would be an improper Government appropriation of privately-owned and managed personal information. Furthermore, they question the ethics of a wholesale ''taking'' by the Federal Government of records currently under the explicit ownership of the M&O contractor.

DOE disagrees. The revisions to the DEAR ensure records generated in the performance of the contract containing personal information that are retrieved by name or other personal identifier are classified and maintained in Privacy Act SORs in accordance with the Privacy Act and NARA records management regulations. This rule does not extend Government ownership to the entirety of personnel or other records generated and maintained by the contractor as set forth in 48 CFR 970.5204–3(b), but to those records series that are generated and received that document work performed under the contract. As discussed above, DOE categorized certain contractor and subcontractor personnel, employment, medical, occupational health and exposure records as Privacy Act SORs in the SORN published on January 9, 2009, (74 FR 994). These records series currently contain routine use exceptions as to whom and when these particular records may be released. Additionally, DOE disagrees that the Federal Government is taking records under the explicit ownership of the M&O contractor. The regulations in 10 CFR parts 835 and 850 requiring contractors to create and maintain exposure, medical and occupational health records as part of the Occupational Radiation Program and the Chronic Beryllium Disease Prevention Program currently require transfer of those records to DOE on cessation of work activities.

DOE acknowledges this may be a new requirement for non-M&O contractors, but a requirement that is necessary to address records ownership issues and establish consistent records maintenance, retention and disposition requirements in accordance with DOE's NARA-approved Records Management schedules.

Privacy Act and Ownership of Records Considerations

One commenter expressed concern that having two Privacy Act clauses would create a conflict. Since M&O contracts already include the Privacy Act clause (48 CFR 52.224–2), the commenter asserted that the *Access to and Ownership of Records* clause would create redundancy and inconsistency.

DOE disagrees. There is no redundancy or inconsistency between the Privacy Act clause at 48 CFR 52.224–2 and the *Access to and Ownership of Records* clause at 48 CFR 970.5204–3. Language has been added to 48 CFR 970.0407–1–2 to clarify the link between the two clauses; however, no additional requirements have been added; the revisions are for clarity.

Health Insurance Portability and Accountability Act (HIPAA) Liability

One commenter expressed concern that the transfer of ownership of privately-owned medical records to the government would create potential conflicts with HIPAA and could result in HIPAA litigation. The commenter claims that it may also impede normal functions of a medical provider.

DOE disagrees. DOE must comply with the statutory requirements of HIPAA and the Privacy Act; these requirements will not impede the normal functions of a medical provider. The Privacy Act does not apply to all categories of records; it only applies to a SOR, paper based or electronic, under the control of DOE. Accordingly, a record that contains personal information about an individual but is not retrieved by a personal identifier does not quality as a SOR under the Privacy Act. Under 48 CFR 52.224–2(a), the Privacy Act applies to contractors and subcontractors that develop or use a SOR under contract with DOE to collect, maintain or disseminate personal information within a SOR. Additionally, under 48 CFR 52.224–2(b), the contactor and its employees are considered employees of DOE for purposes of the sanction provisions of the Privacy Act during the performance of the contract. Thus, records created based on the contract (e.g., medial records, exposure records, etc.) would be required to be maintained under a SOR.

Integrated Safety Management System (ISMS)

One commenter stated that the *Integration of Environment, Safety and Health into Work Planning and Execution* clause at 48 CFR 970.5223–1, which is also known as Integrated Safety Management (ISM) clause has been an effective framework for integrating safety or a Safety Management System (SMS) into work planning activities at DOE Sites. Under this clause, contractors must provide a documented system for DOE approval, verify effectiveness through periodic validation, and continually monitor safety performance and improvement. The commenter expressed that there are difficulties in achieving required ISM flow down clauses to subcontractors performing work at DOE sites.

The commenter also asserted that the application of the records retention requirements across the DOE complex would lead to a chaotic mosaic of practices as is already evidenced by the variety of ISM clauses and 10 CFR part 850 flow down practices by M&O contractors and the wide variety of Privacy Act SORs now required in existing M&O contracts.

DOE disagrees. The terms of the ISM clause and its prescription are not affected by this rulemaking, and by revising 48 CFR 952.223–75, 904.702(b) and 970.5204–3(g) DOE is clarifying and streamlining the flow down requirements of the *Access to and Ownership of Records* clause.

Other Comments

One commenter expressed concern that the application of the proposed changes are applied indiscriminately across all forms of contracts and will yield unintended and negative consequences due to over breadth.

DOE disagrees. This rule does not require any changes for DOE M&O contractors who are already covered by the *Access to and Ownership of Records* clause at 48 CFR 970.5204–3. For DOE's

non-M&O contractors, this rule affects contracts by requiring inclusion of the *Access to and Ownership of Records* clause when the contract contains the ISM clause at 970.5223–1, as prescribed by 952.223–71, or the *Radiation Protection and Nuclear Criticality* clause at 952.223–72 to ensure proper ownership of records, including records series described within the contract as Privacy Act SORs, are properly defined within the contract as Government-owned records. Records management requirements and responsibilities have not changed, but clarifying language and revisions to referenced requirements were added for consistency across contracts (48 CFR 970.0407–1–1 and 970.5204–3(a), (c), (e) and (f)).

One commenter expressed the view that DOE should use the Notice of Proposed Rulemaking (NOPR) process as an opportunity to revisit and revise DOE Order 206.1 ''Department of Energy Privacy Program.''

DOE disagrees. Revising DOE Order 206.1 is outside the scope of this rulemaking.

One commenter stated that that the records ownership clause should be applied only to contracts (prime and subcontractors) where the scope of work clearly includes potential for exposure to radiation or other hazardous substances. The current clause does not specify what constitutes a ''contract with potential for exposure.''

DOE disagrees. DOE will retain the proposed language in the final rule because the revisions to the DEAR include amending 48 CFR 904.702(b), which clearly establishes that the presence of the *Integration of Environment, Safety and Health into Work Planning and Execution* clause at 48 CFR 952.223–71 or the *Radiation Protection and Nuclear Criticality* clause at 48 CFR 952.223–72 is the criterion used to identify contracts with the potential for exposure to radiological or other hazardous substances. If either of those two clauses is included, the contract is considered a contract with the potential for exposure and the *Access to and Ownership of Records* clause is included in the contract.

One commenter expressed concern that the applicability in 48 CFR 904.702(b), and *Preservation of Individual Occupational Radiation Exposure Records* clause at 48 CFR 952.223–75 do not specify that the clause is to be flowed down to subcontractors, even though the Background section of the NOPR indicates DOE is concerned about ''medical records on contractors and subcontractors.'' The commenter argued that if the *Preservation of Individual Occupational Radiation Exposure Records* is not a mandatory flow-down to the subcontracts, DOE may not still have adequate access to the information (at the subcontractor level) that it seeks.

DOE agrees. DOE has revised the final rule to require contractors to include the requirements of the *Preservation of Individual Occupational Radiation Exposure Records* clause at 48 CFR 952.223–75 and the *Access to and Ownership of Records* clause at 48 CFR 970.5204–3 in all subcontracts that contain either the *Integration of Environment, Safety and Health into Work Planning and Execution* clause at 48 CFR 970.5223–1, or the *Radiation Protection and Nuclear Criticality* clause at 48 CFR 952.223–72.

One commenter stated that the proposed revisions to 48 CFR 970.5204–3(b)(1), Section II.5 of the NOPR did not elaborate on why this change is being proposed and it was not apparent how the proposed change would improve the ability to provide contract-related medical/health records as needed to support EEOICPA and other worker claims.

DOE disagrees that the rule does not improve the ability to provide contract-related medical/health records as needed to support EEOICPA and other work claims. DOE's NARA-approved Records Management Schedules require that DOE maintain certain personnel, exposure, medical and occupational records for extended periods of time to support the EEOICPA and other similar programs by providing records that could support claims (42 USC 7385s–10). To avoid a potential loss or misplacement of records and remove uncertainty regarding ownership of these types of records, the amendments and clarifications within the *Access to and Ownership of Records* clause clarify that Privacy Act SORs are Government-owned and not contractor owned clearly establishes that on contract termination the aforementioned Privacy Act SORs containing the records needed to support the EEOICPA are transferred to DOE (or to a location directed by the contracting officer). This will ensure that DOE can support the EEOICPA and similar programs, respond to future records requests by officials and individuals, and protect the financial and legal interests of individuals and the Government.

III. Section-by-Section Analysis

Section 904.702.—Applicability. The clause applicability specification for Contractor Records Retention at 48 CFR 904.702(b) was revised to update the name of the *Integration of Environment, Safety and Health into Work Planning and Execution* clause, delete the reference to the obsolete Nuclear Safety clause, add a requirement to include the *Access to and Ownership of Records* clause at 48 CFR 970.5204–3, and reference the ''National Archives and Records Administration (NARA)-approved DOE Records Disposition Schedules'' in applicable DOE Directives to ensure Government ownership and access to these records and to establish consistent records management practices in the retention of records.

Section 952.223–75—Preservation of individual occupational radiation exposure records. DOE added language to preserve individual occupational radiation exposure records that requires such records be operated and maintained by contractors and subcontractors as a DOE Privacy Act system of records (i.e., as DOE–35 Personnel Radiation Exposure Records) and to emphasize the requirement to maintain these records in accordance with Subchapter B of 36 CFR, Chapter 12, National Archives and Records Administration (NARA)-approved DOE Records Disposition Schedules and the Privacy Act.

Section 970.0407–1–1—*Alternate retention schedules.* The clause was updated to replace a guide ''DOE G 1324.5B, Records Management Program,'' with ''Subchapter B of 36 CFR Chapter 12—Records Management'' to ensure records retentions are managed in accordance with the regulations. The words ''National Archives and Records Administration (NARA)-approved'' were added before ''DOE Records,'' ''Disposition'' was added between ''Records'' and ''Schedules'' and ''(see current version)'' was replaced with ''(consult current schedule)'' for consistency.

Section 970.0407–1–2—Access to and Ownership of Records. The words ''the records do not fall within a DOE Privacy Act system of record and'' were added to the first sentence and the Privacy Act was added to the list of requirements to ensure contracting officers do not agree to contractor ownership of Privacy Act system of records that are generated during the performance of the contract. In accordance with 48 CFR 52.224–2(b), contractors and their employees are considered employees of DOE for purposes of the Privacy Act during the performance of the contract.

Section 970.0407–1–3—Contract clause. The prescription of the *Access to and Ownership of Records* clause has been expanded to require inclusion, in addition to M&O contracts, in contracts that contain the *Integration of Environment, Safety, and Health into*

Work Planning and Execution clause at 48 CFR 952.223–71 or 48 CFR 970.5223–1, or the *Radiation Protection and Nuclear Criticality* clause at 48 CFR 952.223–72. This change is made to ensure that the *Access to and Ownership of Records* clause is included consistently in all applicable contracts based on the type of work being performed (e.g., work that exposes personnel to hazardous material, radiation or long-term health issues), in addition to M&O contracts. The change is also to meet the requirements of 36 CFR 1222.32(a)(1) requirements that requires Agencies to specify Government ownership and delivery of records into contracts to ensure contractors performing Federal government agency functions create and maintain records that document these activities.

Section 970.5204–3(a)—Government-owned records. Language pertaining to records turnover was relocated from 48 CFR 970.5204–3(a) to 970.5204–3(c) and 970.5204–3(a) was expanded to include the requirements of 36 CFR, Chapter XII,—Subchapter B, ''Records Management'' and FAR 52.224–2 ''Privacy Act.''

Section 970.5024–3(b). The words ''excluding records operated and maintained in DOE Privacy Act system of record'' were added to the last sentence in brackets.

Section 970.5204–3(b)(1)—Contractor-owned records. The words ''operated and maintained by the Contractor'' were added to replace ''described by the contract as being maintained.''

Section 970.5204–3(b) (2). The words ''internal corporate governance records'' were added to the list of confidential contractor financial information to make it clear that these types of records are contractor-owned records. Internal corporate governance records may include processes and policies affecting the way the corporate office is directed, administered or controlled.

Section 970.5204–3(c)—Contract completion or termination. Language was added to clarify the disposition of both Government-owned and contractor-owned records at contract completion or termination. An option was added to allow contractors to deliver ''original'' contractor-owned records to the Government in lieu of copying these records with assurance that the contractor will have rights to access and copy the records as needed.

Section 970.5204–3(e)—Applicability. DOE modified the applicability of the *Access to and Ownership of Records* clause to make it clear that records created, received, and maintained by the contractor, whether they be Government-owned or contractor-owned, includes all records in the possession of the contractor regardless of the date of origin and includes those records acquired from a predecessor contractor.

Section 970.5204–3(f)—Records retention standards. The title of this section has been modified to read ''Records maintenance and retention'' and the section has been expanded to specify the contractor's records management responsibilities for the creation, maintenance, and disposition of records in accordance with applicable Federal laws, regulations and DOE Directives. The revisions provide clear direction to the contractor and subcontractor on their records management responsibilities, particularly the maintenance, disposition and ownership of records. The language was also revised to clearly link retention of records to the NARA-approved DOE Records Disposition Schedules. DOE removed language that previously singled out individual radiation exposure records because these records shall be operated and maintained by the contractor as Government-owned DOE Privacy Act SOR. The last sentence was also modified to clarify when application of the NARA-approved record schedules may be waived.

Section 970.5204–3(g)—Subcontracts. This paragraph is revised to eliminate the $2 million dollar threshold requirement for flow down of the *Access to and Ownership of Records* clause because applicability of the clause is more appropriately determined by the nature of the work rather than cost of the contract (i.e., subcontracts in which contract performance exposes personnel to hazardous material, radiation, or long-term health issues). The paragraph was also expanded to require inclusion in subcontracts containing the *Integration of Environment, Safety and Health into work Planning and Execution* clause at 48 CFR 952.223–71 or the *Radiation Protection and Nuclear Criticality* clause at 48 CFR 952.223–72, consistent with the prescription for prime contracts in 48 CFR 970.0407–1–3, and the contractor records retention applicability in 48 CFR 904.702. This paragraph was also modified to include flow down of the Privacy Act clause into subcontracts.

IV. Procedural Requirements

A. Review Under Executive Orders 12866 and 13563

Today's regulatory action has been determined not to be a ''significant regulatory action'' under Executive Order 12866, Regulatory Planning and Review, 58 FR 51735, September 30, 1993. Accordingly, this rule is not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget (OMB).

DOE has also reviewed this regulation pursuant to Executive Order 13563, issued on January 18, 2011 (76 FR 3281 (Jan. 21, 2011)). Executive Order 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, agencies are required by Executive Order 13563 to: (1) Propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

DOE emphasizes as well that Executive Order 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. DOE believes that today's final rule is consistent with these principles, including the requirement that, to the extent permitted by law, agencies adopt a regulation only upon a reasoned determination that its benefits justify its costs and, in choosing among alternative regulatory approaches, those approaches maximize net benefits.

B. Review Under Executive Order 12988

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

C. Review Under the Regulatory Flexibility Act

This final rule has been reviewed under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* which requires preparation of an initial regulatory flexibility analysis for any rule that must be proposed for public comment and is likely to have a significant economic impact on a substantial number of small entities. DOE recognizes that a burden may be placed on small businesses performing these applicable work scopes, but it is a burden that is imposed under existing regulations (Subchapter B of 36 CFR, Chapter 12), not by revisions to these clauses.

Accordingly, DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities, and, therefore, no regulatory flexibility analysis has been prepared.

D. Review Under the Paperwork Reduction Act

This rule does not impose any new information collection or recordkeeping requirements. Existing information collections imposed by the Department of Energy Acquisition Regulation are covered by OMB Control Number 1910–4100. Public reporting burden for these collections is estimated to average 119 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to *Chad_S._Whiteman@omb.eop.gov.*

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

E. Review Under the National Environmental Policy Act

DOE has concluded that this final rule falls into a class of actions which would not individually or cumulatively have significant impact on the human environment, as determined by DOE's regulations (10 CFR Part 1021, Subpart D) implementing the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this rule is categorically excluded from NEPA review because the amendments to the DEAR are strictly procedural (categorical exclusion A6). Therefore, this rule does not require an environmental impact statement or environmental assessment pursuant to NEPA.

F. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' (64 FR 43255, August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined today's rule and has determined that it does not preempt State law and would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA; Pub. L. 104–4) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. For proposed regulatory actions likely to result in a rule that may cause expenditures by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish estimates of the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b).) UMRA also requires Federal agencies to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate.'' In addition, UMRA requires an agency plan for giving notice and opportunity for timely input to small governments that may be affected before establishing a requirement that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. (62 FR 12820). Today's rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, therefore these requirements do not apply.

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

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277), requires federal agencies to issue a Family Policymaking Assessment for any rule or policy that may affect family well-being. This rule will have no impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 13211

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001), requires federal agencies to prepare and submit to the OIRA, OMB, a Statement of Energy Effects for any

significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use in the aggregate, or to the private sector, other than to the extent such actions merely incorporate requirements specifically set forth in a statute.

DOE has determined that the rule published today does not have a significant adverse effect on the supply, distribution, or use of energy and is therefore not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

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

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

K. Congressional Notification

As required by 5 U.S.C. 801, the Department will submit to Congress a report regarding the issuance of today's final rule prior to the effective date set forth at the outset of this rule. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

L. Approval by the Office of the Secretary of Energy

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

List of Subjects in 48 CFR Parts 904, 952 and 970

Government procurement.

Issued in Washington, DC, on September 10, 2014.

Paul Bosco,

Director, Office of Acquisition and Project Management, Department of Energy.

Joseph Waddell,

Deputy Associate Administrator, Acquisition and Project Management, National Nuclear Security Administration.

For the reasons set out in the preamble, DOE amends Chapter 9 of Title 48 of the Code of Federal Regulations as set forth below:

PART 904—ADMINISTRATIVE MATTERS

■ 1. The authority citation for part 904 continues to read as follows:

Authority: 42 U.S.C. 7101, *et seq.* and 50 U.S.C. 2401, *et seq.*

■ 2. Section 904.702 is revised to read as follows:

904.702 Applicability.

(b) Contracts containing the *Integration of Environment, Safety and Health into Work Planning and Execution* clause at 970.5223–1, as prescribed by 952.223–71, or the *Radiation Protection and Nuclear Criticality* clause at 952.223–72 must also include the *Preservation of Individual Occupational Radiation Exposure Records* clause at 952.223–75, and the *Access to and Ownership of Records* clause at 970.5204–3, which will necessitate retention of records in accordance with the National Archives and Records Administration (NARA)-approved DOE Records Disposition Schedules, rather than those found at FAR Subpart 4.7.

PART 952—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. The authority citation for part 952 continues to read as follows:

Authority: 42 U.S.C. 2201; 2282a; 2282b; 2282c; 42 U.S.C. 7101 *et seq.;* 50 U.S.C. 2401 *et seq.*

■ 4. In section 952.223–75, the clause text is revised to read as follows:

952.223–75 Preservation of individual occupational radiation exposure records.

* * * * *

Individual occupational radiation exposure records generated in the performance of work under this contract shall be generated and maintained by the contractor in accordance with 36 CFR Chapter XII, Subchapter B, ''Records Management,'' the National Archives and Records Administration (NARA)-approved DOE Records Disposition Schedules, and shall be operated as a DOE Privacy Act system of records, in accordance with the Privacy Act.

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

■ 5. The authority citation for part 970 continues to read as follows:

Authority: 42 U.S.C. 2201; 2282a; 2282b; 2282c; 42 U.S.C. 7101, *et. seq.;* 50 U.S.C. 2401, *et seq.*

■ 6. Revise section 970.0407–1–1 to read as follows:

970.0407–1–1 Alternate retention schedules.

Records produced under the Department's contracts involving management and operation responsibilities relative to DOE-owned or -leased facilities are to be retained and disposed of in accordance with the requirements contained in 36 CFR Chapter XII, Subchapter B, ''Records Management'' and National Archives and Records Administration (NARA)-approved DOE Records Disposition Schedules (consult current schedule), rather than those set forth at 48 CFR subpart 4.7, Contractor Records Retention.

970.0407–1–2 [Amended]

■ 7. Section 970.0407–1–2 is amended by adding in the first sentence the words ''the records do not fall within a DOE Privacy Act system of record and'' after ''provided'' and adding in the last sentence the words ''the Privacy Act'' before ''requirements.''

■ 8. Revise section 970.0407–1–3 to read as follows:

970.0407–1–3 Contract clause.

The contracting officer shall insert the clause at 48 CFR 970.5204–3, *Access to and Ownership of Records,* in management and operating contracts and other contracts and resulting subcontracts that contain the clause at 48 CFR 970.5223–1, *Integration of Environment, Safety, and Health into Work Planning and Execution* clause, or the clause at 48 CFR 952.223–72, *Radiation Protection and Nuclear Criticality.*

■ 9. Amend section 970.5204–3 by:

■ a. Revising the clause date; and

■ b. Revising paragraphs (a), (b), (c), (e), (f) and (g);

The revisions read as follows:

970.5204–3 Access to and ownership of records.

* * * * *

ACCESS TO AND OWNERSHIP OF RECORDS

[October 2014]

(a) *Government-owned records.* Except as provided in paragraph (b) of this clause, all records acquired or generated by the contractor in its performance of this contract, including records series described within the contract as Privacy Act systems of records, shall be the property of the Government and shall be maintained in accordance with 36 CFR, Chapter XII, Subchapter B, ''Records Management.'' The contractor shall ensure records classified as Privacy Act system of records are maintained in accordance with FAR 52.224.2 ''Privacy Act.''

(b) *Contractor-owned records.* The following records are considered the property of the contractor and are not within the scope of paragraph (a) of this clause. [The contracting officer shall identify which of the following categories of records will be included in the clause, excluding records operated and maintained in DOE Privacy Act system of records].

(1) Employment-related records (such as worker's compensation files; employee relations records, records on salary and employee benefits; drug testing records, labor negotiation records; records on ethics, employee concerns; records generated during the course of responding to allegations of research misconduct; records generated during other employee related investigations conducted under an expectation of confidentiality; employee assistance program records; and personnel and medical/health-related records and similar files), and non-employee patient medical/health-related records, excluding records operated and maintained by the Contractor in Privacy Act system of records. Employee-related systems of record may include, but are not limited to: Employee Relations Records (DOE–3), Personnel Records of Former Contractor Employees (DOE–5), Payroll and Leave Records (DOE–13), Report of Compensation (DOE–14), Personnel Medical Records (DOE–33), Employee Assistance Program (EAP) Records (DOE–34) and Personnel Radiation Exposure Records (DOE–35).

(2) Confidential contractor financial information, internal corporate governance records and correspondence between the contractor and other segments of the contractor located away from the DOE facility (i.e., the contractor's corporate headquarters);

(3) Records relating to any procurement action by the contractor, except for records that under 48 CFR 970.5232–3 are described as the property of the Government; and

(4) Legal records, including legal opinions, litigation files, and documents covered by the attorney-client and attorney work product privileges; and

(5) The following categories of records maintained pursuant to the technology transfer clause of this contract:

(i) Executed license agreements, including exhibits or appendices containing information on royalties, royalty rates, other financial information, or commercialization plans, and all related documents, notes and correspondence.

(ii) The contractor's protected Cooperative Research and Development Agreement (CRADA) information and appendices to a CRADA that contain licensing terms and conditions, or royalty or royalty rate information.

(iii) Patent, copyright, mask work, and trademark application files and related contractor invention disclosures, documents and correspondence, where the contractor has elected rights or has permission to assert rights and has not relinquished such rights or turned such rights over to the Government.

(c) *Contract completion or termination.* Upon contract completion or termination, the contractor shall ensure final disposition of all Government-owned records to a Federal Record Center, the National Archives and Records Administration, to a successor contractor, its designee, or other destinations, as directed by the Contracting Officer. Upon the request of the Government, the contractor shall provide either the original contractor-owned records or copies of the records identified in paragraph (b) of this clause, to DOE or its designees, including successor contractors. Upon delivery, title to such records shall vest in DOE or its designees, and such records shall be protected in accordance with applicable federal laws (including the Privacy Act) as appropriate. If the contractor chooses to provide its original contractor-owned records to the Government or its designee, the contractor shall retain future rights to access and copy such records as needed.

* * * * *

(e) *Applicability.* This clause applies to all records created, received and maintained by the contractor without regard to the date or origination of such records including all records acquired from a predecessor contractor.

(f) *Records maintenance and retention.* Contractor shall create, maintain, safeguard, and disposition records in accordance with 36 CFR Chapter XII, Subchapter B, ''Records Management'' and the National Archives and Records Administration (NARA)-approved Records Disposition Schedules. Records retention standards are applicable for all classes of records, whether or not the records are owned by the Government or the contractor. The Government may waive application of the NARA-approved Records Disposition Schedules, if, upon termination or completion of the contract, the Government exercises its right under paragraph (c) of this clause to obtain copies of records described in paragraph (b) and delivery of records described in paragraph (a) of this clause.

(g) *Subcontracts.* The contractor shall include the requirements of this clause in all subcontracts that contain the *Integration of Environment, Safety and Health into Work Planning and Execution* clause at 952.223–71 or, the *Radiation Protection and Nuclear Criticality* clause at 952.223–72.

(End of Clause)

[FR Doc. 2014–22283 Filed 9–18–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 130925836–4174–02]

RIN 0648–XD509

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 620 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the C season allowance of the 2014 total allowable catch of pollock for Statistical Area 620 in the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 16, 2014, through 1200 hrs, A.l.t., October 1, 2014.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (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 C season allowance of the 2014 total allowable catch (TAC) of pollock in Statistical Area 620 of the GOA is 12,448 metric tons (mt) as established by the final 2014 and 2015 harvest specifications for groundfish of the GOA (79 FR 12890, March 6, 2014). In accordance with § 679.20(a)(5)(iv)(B), the Administrator, Alaska Region, NMFS (Regional Administrator), hereby decreases the C season pollock allowance by 1,924 mt to reflect the total overharvest of the B season allowance in Statistical Area 620. Therefore, the revised C season allowance of the pollock TAC in Statistical Area 620 is 10,524 mt (12,448 mt minus 1,924 mt).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the C season allowance of the 2014 TAC of pollock in Statistical

Area 620 of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 10,274 mt and is setting aside the remaining 250 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 620 of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Acting 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 closure of directed fishing for pollock in Statistical Area 620 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 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: September 16, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–22363 Filed 9–16–14; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 79, No. 182

Friday, September 19, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 121, 125, and 135

[Docket No.: FAA–2014–0554; Notice No. 14–08]

RIN 2120–AK32

Acceptance Criteria for Portable Oxygen Concentrators Used On Board Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This rulemaking would replace Special Federal Aviation Regulation No. 106 with acceptance criteria for portable oxygen concentrators to be used by passengers in air carrier operations, commercial operations and certain other operations using large aircraft. Currently, the agency assesses each portable oxygen concentrator on a case-by-case basis to determine whether it is safe for use on board aircraft. If the agency determines that a portable oxygen concentrator is safe for use on board aircraft, the specific model is identified in regulations. This rulemaking would replace the burdensome approval process with acceptance criteria and a requirement for manufacturers to demonstrate compliance by affixing a label on the exterior of the portable oxygen concentrator applied in a manner that ensures it will remain affixed for the life of the device. The proposed acceptance criteria and labeling requirement would only affect portable oxygen concentrators intended for use on board aircraft. Portable oxygen concentrators currently approved for use on board aircraft would not be affected by this proposal and will be listed in this rule as approved. This rulemaking would also eliminate redundant requirements and paperwork requirements that are not necessary for aviation safety thereby reducing burdens for portable oxygen concentrator manufacturers, passengers who use portable oxygen concentrators while traveling, and aircraft operators conducting air carrier operations, commercial operations or certain operations using large aircraft.

DATES: Send comments on or before November 18, 2014.

ADDRESSES: Send comments identified by docket number FAA–2014–0554 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact DK Deaderick, 121 Air Carrier Operations Branch, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, AFS–220, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–7480; email *dk.deaderick@faa.gov.*

For legal questions concerning this action, contact Sara L. Mikolop, Office of the Chief Counsel, AGC–220, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3073; email *sara.mikolop@faa.gov.*

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I. Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. This rulemaking is promulgated under the authority described in 49 U.S.C. 106(f), which vests final authority in the Administrator for carrying out all functions, powers, and duties of the administration relating to the promulgation of regulations and rules, and section 44701(a)(5), which requires the Administrator to promulgate regulations and minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security.

II. Overview of the Proposed Rule

This proposed rule would affect the use of portable oxygen concentrators (POC) on board aircraft in operations conducted under 14 CFR parts 121, 125, and 135, by replacing the existing FAA case-by-case POC approval process in Special Federal Aviation Regulation (SFAR) No. 106, with FAA acceptance criteria. With this NPRM, the agency proposes to modify the process by which a POC may be deemed acceptable for use on board aircraft. Rather than amend existing SFAR No. 106 each time the FAA accepts a specific model of POC for use on board aircraft, this proposal identifies acceptance criteria for POCs. With the establishment of acceptance criteria for POCs the FAA would discontinue use of SFAR No. 106 and remove it from parts 121, 125, and 135 of title 14 of the Code of Federal Regulations (CFR).

POCs operate by separating oxygen from nitrogen and other gases comprising ambient air and then dispensing the oxygen in concentrated form to the user. POCs are the only oxygen dispensing devices that a passenger requiring oxygen therapy may carry for their personal use during flight. Although aircraft operators are not required to provide medical oxygen, the only other options for passengers requiring oxygen therapy during flight is to procure medical oxygen directly from the aircraft operator. Operators typically charge for this oxygen service and it can be difficult for passengers to coordinate service between the carrier and supplier of oxygen at the terminal, leaving gaps in oxygen service during travel.

The FAA established standards for the use of POCs on board aircraft through SFAR No. 106—Rules for use of portable oxygen concentrator systems on board aircraft. *See* 70 FR 40156 (July 12, 2005). Without SFAR No. 106 an exemption from the regulations applicable to devices that dispense medical oxygen (§ 121.574, § 125.219, or § 135.91) would be necessary for passengers to carry on and operate their own (not furnished by the aircraft operator) POC. *See* 69 FR 42324, 42325 (July 14, 2004). The agency intended SFAR No. 106 to serve as a special, temporary regulation until POC performance standards (acceptance criteria) could be developed. *See* 70 FR at 40158–40159.

In 2005, SFAR No. 106 identified the first specific POC models approved for use on board aircraft. The FAA has continued to allow the carriage and use of specific POC models only after each individual POC manufacturer has demonstrated to the FAA that its model should be approved for use. Each time a new POC is approved by the FAA for use on board aircraft, the FAA amends SFAR No. 106 by adding the name of the POC to the regulation. The FAA has amended SFAR No. 106 seven times since 2005 to add the names of additional POC models as they are approved for use in part 121, 125, and 135 operations—a process as long as up to two years.[1] The agency proposes to replace this cumbersome POC approval process with POC acceptance criteria and specific labeling requirements to identify POCs as satisfying the proposed acceptance criteria.

As with existing requirements applicable to POC approval for use on aircraft, compliance with the proposed acceptance criteria and labeling requirement is only necessary for POCs used on aircraft. A comparison of the proposed acceptance criteria and labeling requirement with related SFAR No. 106 provisions is provided in Table 1.

TABLE 1—COMPARISON OF PROPOSED ACCEPTANCE CRITERIA AND LABELING REQUIREMENT WITH RELATED SFAR NO. 106 REQUIREMENTS

	Related SFAR No. 106 requirements	Proposed acceptance criteria and labeling requirement
Food and Drug Administration (FDA) clearance to market the device.	The POC must be regulated by the FDA (§ 2(2)) ..... *Note:* To satisfy this requirement, manufacturers currently provide the FAA with the FDA letter granting approval to market the device (the FDA response to a manufacturer's 510(k) submission).	The POC manufacturer has received FDA clearance to legally market the device in the United States.
Hazardous materials	The POC may not contain hazardous materials as determined by the Pipeline and Hazardous Materials Safety Administration (§ 2(1)). *Note:* To satisfy this requirement, manufacturers currently provide the FAA with a Pipeline and Hazardous Materials Safety Administration (PHMSA) determination letter stating that the POC does not contain hazardous materials.	The POC may not contain any hazardous materials subject to the *Hazardous Materials Regulations (49 CFR parts 171–180),* except as provided for in the exceptions for crewmembers and passengers (49 CFR 175.10). The maximum oxygen pressure generated by the POC must fall below the threshold for the definition of a compressed gas as per the Hazardous Materials Regulations.

[1] Currently, 24 POC models have been approved by the FAA and identified in SFAR No. 106 for use on board aircraft.

TABLE 1—COMPARISON OF PROPOSED ACCEPTANCE CRITERIA AND LABELING REQUIREMENT WITH RELATED SFAR NO. 106 REQUIREMENTS—Continued

	Related SFAR No. 106 requirements	Proposed acceptance criteria and labeling requirement
Electromagnetic emissions ..	Operator must determine that POC does not cause interference with the electrical, navigation or communication equipment on the aircraft on which the device is to be used (§ 3(a)(1)). *Note:* To satisfy this requirement, it is the current practice of operators to use testing data provided by POC manufacturers regarding the electromagnetic emissions of a specific POC model. Manufacturers currently complete testing in accordance with RTCA standard 160G, Section 21, Category M.	Manufacturer must complete testing in accordance with RTCA standard 160G, Section 21, Category M. The POC electromagnetic emissions must fall below the threshold permitted in RTCA standard 160G, Section 21, Category M.
Identification of POCs safe for use on board aircraft.	POC model must be identified in SFAR No. 106 as approved for use on board aircraft prior to use on board aircraft in part 121, 125, and 135 operations (§ 2, § 3(a)). *Note:* Specific POCs approved for use on board aircraft are identified in SFAR No. 106 by manufacturer, make, and model. Although some POC manufacturers affix a label indicating FAA approval for use on board aircraft, there is no current FAA requirement for a label indicating this approval.	POC manufacturers must affix a label for the life of the device that certifies compliance with acceptance criteria pertaining to FDA clearance to market the device, hazardous materials, and testing for electromagnetic emissions. POC models identified in existing SFAR No. 106 satisfy the acceptance criteria and will be exempt from the labeling requirement. These POC models will continue to be identified in the regulatory text.

In accordance with this proposal, manufacturers of POC models not identified in SFAR No. 106 would have to ensure the POC satisfies the acceptance criteria before it may be used on board an aircraft. If a manufacturer determines that a new POC model meets these criteria, the manufacturer would not need to seek approval from the FAA prior to indicating that a POC is safe for air travel. Instead, the manufacturer would affix a label to the POC, as specified in the proposal, indicating the POC meets FAA acceptance criteria. The FAA believes this proposed label would facilitate passenger and crew recognition by identifying the POC as safe for use in the cabin during all phases of flight.

The FAA proposes that the requirement for labeling apply only to POCs not currently listed as approved in SFAR No. 106. POC models previously listed as approved for use on board aircraft in SFAR No. 106 received approval because they satisfied the criteria set forth in SFAR No. 106. Any device that previously demonstrated compliance with SFAR No. 106 criteria would satisfy the proposed acceptance criteria.

The FAA believes it is not necessary or practical to require POC manufacturers to retrofit previously approved POCs with a label. The FAA expects POCs listed in SFAR No. 106 will decrease over time as they age and are replaced with newer models. Therefore, the FAA proposes to maintain in the proposed regulatory text, a list of POCs approved in accordance with SFAR No. 106 and proposes excepting them from the proposed labeling requirement so that passengers and crewmembers can continue to identify these POCs as approved for use on board aircraft.

In addition, the agency proposes to eliminate SFAR No. 106 requirements related to POC use on aircraft that are addressed elsewhere in title 14 or title 49 of the Code of Federal Regulations. For example, existing regulations outside of SFAR No. 106 address stowage of carry-on items (§§ 121.285, 121.589, 125.183, and 135.87) and exit row seating (§§ 121.585 and 135.129). This proposal would also eliminate specific SFAR No. 106 requirements applicable to passengers that are not necessary for safe POC use on board aircraft, and impose an unnecessary and unreasonable paperwork burden on affected passengers and their physicians as well as crewmembers and aircraft operators. Table 2 summarizes the proposed disposition of all SFAR No. 106 provisions.

TABLE 2—SUMMARY OF SFAR NO. 106 PROVISIONS AND PROPOSED DISPOSITION

Summary of SFAR No. 106 provision	Description of proposed disposition in NPRM
• Requirement that the POC is legally marketed in the United States in accordance with FDA requirements (§ 2(2)). • Requirement for operator to determine that POC does not cause interference with the electrical, navigation or communication equipment on the aircraft on which the device is to be used (§ 3(a)(1)). • Prohibition on POCs containing hazardous materials as determined by the Pipeline and Hazardous Materials Safety Administration (§ 2(1)). • POC model must be identified in SFAR No. 106 prior to use in part 121, 125, and 135 operations (§ 2, § 3(a))*.	SFAR No. 106 Provisions Reflected in Proposed Acceptance Criteria and Labeling Requirement.
• Prohibition on smoking or open flame near POC (§ 3.(a)(2)) ..... • POC model must be identified in SFAR No. 106 prior to use in part 121, 125, and 135 operations (§ 2, § 3(a))*.	SFAR No. 106 Provisions Retained.

TABLE 2—SUMMARY OF SFAR NO. 106 PROVISIONS AND PROPOSED DISPOSITION—Continued

Summary of SFAR No. 106 provision	Description of proposed disposition in NPRM
• Requirements for POC user to obtain a physician's statement and provide notice to pilot and aircraft operator regarding POC use and contents of physician statement (§§ 3.(a)(5) and 3.(b)(3)). • Requirement for POC user to be capable of responding to alarms or to travel with a person who can perform these functions (§ 3.(b)(1)). • Requirement for POC user to ensure that the POC is free of petroleum products or signs of excessive wear or abuse (§ 3.(b)(2)). • Prohibition on use of salves and lotions unless "oxygen approved" (§ 3.(b)(4)). • Requirement for passenger to carry a sufficient number of batteries for duration of flight (§ 3.(b)(5)).	SFAR No. 106 Provisions Eliminated in Their Entirety.

* The list of POCs currently identified in SFAR No. 106 would be maintained in parts 121, 125 and 135. All other POCs would need to satisfy the proposed acceptance criteria and bear a label for the life of the device indicating compliance with the acceptance criteria. A detailed discussion regarding the identification of POCs that satisfy the acceptance criteria is provided in the preamble.

This proposed rule would relieve regulatory burdens for POC manufacturers as they would no longer be required to submit a petition for rulemaking to amend SFAR No. 106 for each new POC introduced into the marketplace and intended for use on board aircraft. Similarly, this proposed rule would relieve passengers of the current paperwork burden of obtaining a physician's statement and notifying both the pilot in command and the aircraft operator concerning their POC usage while on board aircraft.

III. Summary of Cost Savings

The FAA estimates that manufacturers would save $108,000 over ten years because they would no longer have to petition the FAA for rulemaking with each new device they want to add to the list of POCs approved for use during flight on board aircraft. These cost savings would be reduced slightly because manufacturers would incur an estimated total one-time cost of $22,000 to comply with the proposed labeling requirement. The FAA estimated additional cost savings because of the discontinuation of certain requirements from SFAR No. 106. Total estimated cost savings are presented in the table below.

Total Cost Savings from Proposed Rule			
Cost Savings		7% present value savings	3% present value savings
FAA Savings - No SFAR	$ 91,644	$ 68,871	$ 32,573
Manufacturer Savings - No Petition	$108,000	$75,853	$92,126
No Longer Obtaining Physician's statement	$559,660	$391,402	$476,509
No Longer Notifying Pilot in Command	$36,599,268	$25,595,997	$31,161,620
Total Cost Savings	$37,358,571	$26,132,123	$31,762,828

IV. Background

On July 12, 2005 (70 FR 40156), the FAA published a final rule adding SFAR No. 106. This final rule permitted the use of POCs on board aircraft to address the needs of passengers requiring oxygen therapy while traveling.

Prior to SFAR No. 106, passengers could carry and operate equipment generating, storing or dispensing medical oxygen on board an aircraft only if the equipment was furnished by the certificate holder and certain other conditions prescribed in 14 CFR 121.547, 125.219 and 135.91 were satisfied. At the time the agency published SFAR No. 106, the FAA did not require aircraft operators to provide medical oxygen and many regional air carriers and some larger air carriers did not provide this service. Those carriers that did allow passengers to use the medical oxygen provided the compressed oxygen themselves and typically charged a fee for this service. (The agency notes that today, virtually no certificate holders conducting part 121 operations provide in-flight supplemental oxygen for passengers.)

Further, passengers requiring oxygen therapy during travel faced difficulty coordinating service between the carrier and the supplier of medical oxygen to ensure coverage at the terminal, gate to gate, and on board the aircraft. Sometimes, passengers would spend at least part of the time travelling without medical oxygen due to service problems with the oxygen provider. *See* 70 FR 40156, 40156 (July 12, 2005).

In 2002, POCs were brought to the attention of the FAA as a new portable technology for dispensing medical oxygen for purposes of oxygen therapy. POCs work by filtering nitrogen from the air and providing the POC user with oxygen at a concentration of approximately 90%. Thus, POCs do not require the same level of special handling as compressed oxygen. However, due to existing FAA regulations applicable to the use of devices that dispense oxygen (§§ 121.574, 125.219, and 135.91), including POCs, the FAA informed the POC community that an exemption would be required for a passenger to carry on and operate a POC that the passenger supplied for his or her own use (not furnished by the aircraft operator).

In 2004, rather than wait for petitions for exemption from the existing regulations, the FAA published an NPRM proposing SFAR No. 106. *See* 69 FR 42324 (July 14, 2004). In the NPRM,

the agency proposed to permit passengers to carry on and operate their own POC on board an aircraft as long as certain conditions were met.

The SFAR No. 106 final rule, published July 12, 2005, established criteria for FAA approval of POCs for use on board aircraft. This final rule prohibited passengers from using POCs on board aircraft under part 121, 125, and 135 operations, unless those POCs satisfied the approval criteria and were identified by manufacturer and model name in SFAR No. 106. This final rule also established POC operating rules for aircraft operators, crewmembers and passengers.

Initially, SFAR No. 106 applied to part 119 certificate holders conducting operations under part 121. In a technical amendment published January 12, 2007 (72 FR 1442), the FAA made conforming amendments to 14 CFR parts 125 and 135 to apply the requirements of SFAR No. 106 to part 119 certificate holders conducting operations under parts 125 and 135.

Since the FAA originally published SFAR No. 106, it has been amended seven times to list additional POCs and currently identifies 24 POCs that may be used on board aircraft.[2] This process is time-consuming for POC manufacturers and the FAA. POC manufacturers who want the FAA to approve a POC for use in part 121, 125, and 135 operations must petition the FAA for rulemaking to amend SFAR No. 106, by adding their POC model to the list and provide the FAA with Food and Drug Administration (FDA) and Pipeline and Hazardous Materials Safety Administration (PHMSA) documentation required for the FAA to make a determination whether the POC may be safely used on board aircraft. This process is also time-consuming for the FAA because rulemaking must be accomplished each time a new POC model is added to SFAR No. 106. As a result of the rulemaking required to add a POC model to the list of POCs in SFAR No. 106, passengers may not use a POC on board an aircraft in part 121, 125, or 135 operations until the FAA identifies the device they wish to use in SFAR No. 106.

V. Discussion of the Proposed Rule

When SFAR No. 106 was originally published, the FAA committed to establishing a single standard for all POC devices. Whenever possible, the FAA tries to regulate by creating performance-based standards rather than approving specific devices on a case-by-case basis. However, the FAA determined that the quickest way to serve both the passenger and the aircraft operator and to avoid creating circumstances that would stifle new technology, was to allow the use of specific POCs approved by the FAA for use on aircraft and identified in SFAR No. 106, a special, temporary regulation. *See* 70 FR at 40157–40159.

After evaluating the provisions contained in SFAR No. 106, the relevant provisions of existing Hazardous Materials Regulations (HMR) (49 CFR parts 171–180), and a decade of accumulated knowledge and experience the FAA has gained with POCs, the FAA proposes to replace the POC case-by-case approval process with performance-based standards (acceptance criteria) as envisioned by the FAA at the time SFAR No. 106 was developed. The proposed rule would specify POC acceptance criteria for POC use in part 121, 125, and 135 operations. A manufacturer would then certify the device meets the FAA acceptance criteria by affixing a label for the life of the device that certifies the POC conforms to FAA acceptance criteria. Additionally, this proposed rule would prescribe limited operational requirements governing the use of POCs on board aircraft. The proposed requirements are discussed below.

A. Definition of Portable Oxygen Concentrator

Currently, SFAR No. 106 explains POCs perform by separating oxygen from nitrogen, and other gasses contained in ambient air, and dispensing the oxygen in a concentrated form to the user.

The FAA proposes to define a POC in 14 CFR 1.1 as ''a medical device that separates oxygen from other gasses in ambient air and dispenses this concentrated oxygen to the user.'' This definition is consistent with the explanation used in existing SFAR No. 106 and Advisory Circular 120–95, Portable Oxygen Concentrators[3] as well as the device description used by POC manufacturers and the FDA,[4] the federal agency with primary regulatory authority over POCs for medical use.

By including this definition in 14 CFR 1.1, the FAA intends to distinguish POCs from portable oxygen generators and other medical devices that use compressed or liquid oxygen for medical oxygen therapy, because devices that use compressed or liquid oxygen must satisfy separate and more rigorous requirements to mitigate the risks they present.

B. Applicability and Effective Date

SFAR No. 106 applies only to those POC models intended for use on board aircraft in operations conducted under parts 121, 125, and 135 of title 14 of the Code of Federal Regulations. Further, SFAR No. 106 does not require aircraft operators to allow passengers to operate POCs on board aircraft. Rather, it authorizes the use of specific POCs on board aircraft in operations conducted under parts 121, 125, or 135 if the conditions in SFAR No. 106 are satisfied.

With this NPRM, the agency proposes to modify the process by which a POC may be deemed acceptable for use on board aircraft. Rather than amend existing SFAR No. 106 each time the FAA accepts a specific model of POC for use on board aircraft, this proposal identifies acceptance criteria for POCs. With the establishment of acceptance criteria for POCs the FAA would discontinue use of SFAR No. 106 and remove it from parts 121, 125, and 135 of title 14 of the CFR.

Consistent with SFAR No. 106, this proposal applies only to those POC models intended for use on board aircraft in part 121, 125, and 135 operations and does not create a requirement for operators to allow POC use. Requirements for air carriers to allow the use of a POC on an aircraft continue to be found in 14 CFR part 382, Nondiscrimination on the Basis of Disability in Air Travel.

The agency seeks to make this proposal effective as soon as practicable. The agency recognizes, however, that part 119 certificate holders may need to revise operating manuals and training programs. The agency expects these revisions to occur within the normal course of business and is therefore considering an effective date of 90 days after the publication of the final rule in the **Federal Register**.

C. Portable Oxygen Concentrator Acceptance Criteria

The agency proposes to require POCs used on board aircraft to satisfy specific acceptance criteria. The acceptance criteria are discussed in more detail in this section of the preamble and are summarized as follows:

[2] 71 FR 53956 (Sept. 12, 2006); 74 FR 2354 (Jan. 15, 2009); 75 FR 742 (Jan. 6, 2010); 75 FR 39632 (July 12, 2010); 77 FR 4220 (Jan. 27, 2012); 77 FR 63221 (Oct. 16, 2012); and 79 FR 6018 (Feb. 3, 2014).

[3] AC 120–95 defines POCs as ''small, portable devices that work by separating oxygen from nitrogen and other gasses in the air and providing the user with oxygen at a concentration of more than 90 percent . . .''

[4] Portable oxygen concentrators are a subset of portable oxygen generators defined by the FDA in 21 CFR 868.5440.

• The POC manufacturer complies with all FDA requirements to legally market the device in the United States.

• The POC may not contain any hazardous materials subject to the *Hazardous Materials Regulations (49 CFR parts 171 through 180)* except as provided for in the exceptions for crewmembers and passengers (49 CFR 175.10).

• The maximum oxygen pressure generated by the POC must fall below the threshold for the definition of a compressed gas per the HMR.

• The POC electromagnetic emissions must fall below the threshold permitted in RTCA standard 160G, Section 21, Category M.

The agency further proposes that any POC (except those previously approved for use on aircraft under SFAR No. 106) carried or used by a passenger on an aircraft in part 121, 125, or 135 operations must bear a manufacturer's label using a means to ensure it will remain affixed for the life of the device indicating compliance with these FAA acceptance criteria.

1. Food and Drug Administration Premarket Determination

POCs are medical devices regulated by the FDA in accordance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and title 21 of the CFR. Accordingly, manufacturers must obtain FDA clearance or approval prior to marketing a POC within the United States and comply with certain provisions in title 21 of the CFR, including but not limited to device registration and listing (21 CFR part 807), labeling (21 CFR part 801), adverse event reporting (21 CFR part 803), and good manufacturing practice requirements (21 CFR part 820).

Currently, SFAR No. 106 requires all POCs used on board aircraft in operations conducted under 14 CFR parts 121, 125, and 135 must be legally marketed in compliance with FDA regulations. The purpose of this requirement is to ensure the device is actually what the manufacturer holds it out to be—a portable oxygen concentrator (POC). To demonstrate compliance with this requirement, POC manufacturers must submit evidence the device has been cleared or approved by the FDA for marketing in the United States. The FAA accepts FDA premarket clearance in response to a 510(k) submission as evidence the device may be marketed in the United States.[5]

The FAA proposes to maintain the requirement that any POC used on board an aircraft must be cleared or approved by the FDA for marketing in the United States. However, manufacturers would no longer submit evidence of this clearance or approval to the FAA. Rather, POC manufacturers would certify that the FDA has approved the device for marketing in the United States by affixing a label to the POC, in which the manufacturer confirms compliance with all FAA requirements for the use of the POC on board aircraft. The proposed labeling requirement is discussed in more detail later in this preamble.

As an alternative to identifying the requirement for FDA approval to legally market the device as one of the POC acceptance criteria, the agency is considering incorporating this one acceptance criterion into the POC definition because this criterion already applies to all POCs marketed in the United States per FDA requirements and not just those POCs intended for use on aircraft. The agency seeks comment on this alternative.

2. Electromagnetic Interference Emissions Threshold (RTCA DO–160G, Section 21, Category M)

The agency recognizes POCs as a type of portable electronic device (PED) and permits the use of PEDs during flight, only if the aircraft operator has determined the device does not cause interference with the navigation or communication system of the aircraft in which the device will be used. Further, in accordance with §§ 121.306, 125.204, and 135.144, the aircraft operator is responsible for determining which PEDs may be safely used on its aircraft.

Each operator may establish a method to make a determination regarding the effects of PEDs on its aircraft's avionics. Historically, a common method for making this determination has been to complete evaluations of electromagnetic interference (EMI) on a device-by-device basis which involves comparing the device's emissions against the current RTCA DO–160 standards for airborne equipment.

On October 31, 2013, the agency announced a new means of compliance with §§ 121.306, 125.204, and 135.144, allowing operators to expand the use of passenger supplied and operated PEDs throughout all phases of flight, based on a determination by the operator that the aircraft systems themselves are PED tolerant (i.e., meet the requirements of RTCA DO–307 or another PED tolerance demonstration). *See* InFO 13010 and InFO 13010SUP.[6] The agency does not, however, require aircraft assessment of PED tolerance in accordance with InFO 13010 and InFO 13010SUP. These PED assessment methods provide one means for airplane operators to demonstrate compliance with §§ 121.306, 125.204, and 135.144 and allow PEDs to be used on board aircraft. It is up to each aircraft operator to determine if it wants to expand the use of passenger supplied and operated PEDs via a determination of PED tolerance for certain aircraft types. Some aircraft operators may choose to continue to rely on the individual PED evaluations that occur today.

SFAR No. 106, section 3(a)(1) contains a requirement pertaining to POC interference with aircraft equipment that has the same effect as the requirements in §§ 121.306, 125.204, and 135.144 pertaining to all PEDs. SFAR No. 106 permits operators engaged in part 121, 125, and 135 operations to allow passengers the use of specific POC models that have been tested to ensure that they will not interfere with the aircraft electrical, navigation or communication equipment.

For POC EMI evaluation, the FAA currently accepts as proof of non-interference, emissions test results provided by manufacturers showing a specific POC does not exceed certain maximum emissions thresholds established by RTCA in DO–160, Environmental Conditions and Test Procedures for Airborne Equipment.[7] The agency has determined that Section 21 Category M of RTCA DO–160 establishes safe and conservative

[5] A 510(k) submission is a premarket submission made to FDA to demonstrate that the device to be marketed is at least as safe and effective, that is, substantially equivalent, to a legally marketed device (21 CFR 807.92(a)(3)) that is not subject to premarket approval. Submitters must compare their device to one or more similar legally marketed devices and make and support their substantial equivalency claims. If FDA makes a finding of substantial equivalence, the device is considered ''cleared.'' Additional information regarding the 510(k) process is available at *www.fda.gov.*

[6] All InFOs can be found at *http://www.faa.gov/other_visit/aviation_industry/airline_operators/airline_safety/info/all_infos/.*

[7] RTCA and components of RTCA function as advisory committees in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, Public Law 92–463, 5 U.S.C. App. 2. RTCA membership is drawn from across the aviation industry. RTCA employs the expertise of the aviation community to generate recommendations in response to requests from the FAA to address a wide range of technical aviation issues or questions. RTCA generally provides recommendations (1) broad-gauged policy and investment priority recommendations used by FAA when considering policy and program decisions; and (2) minimum performance standards, reports, and guidance documents used by FAA in regulatory decisions and rulemaking. *See* FAA Order 1110.77U, Charter for RTCA, Inc., April 1, 2013. *http://www.faa.gov/documentlibrary/media/order/1110.77u.pdf.*

emissions limits for electronic devices on board aircraft.[8]

The agency allows aircraft operators to use emissions test results provided by POC manufacturers to demonstrate compliance with section 3(a)(1) of SFAR No. 106.[9] It is current practice for manufacturers to provide the RTCA test compliance statements to the FAA; the FAA then makes the RTCA test compliance statements available on its Web site for aircraft operator reference. The RTCA compliance statements may be viewed at *http://www.faa.gov/about/initiatives/cabin_safety/portable_oxygen/.*

The agency recognizes the current SFAR No. 106 requirement for an operator to evaluate POC interference with aircraft equipment is redundant with the requirements in §§ 121.306, 125.204, and 135.144. Further, many part 121 operators have already conducted aircraft assessment of PED tolerance in accordance with InFO 13010 and InFO 13010SUP, which would make an independent assessment of POC electromagnetic emissions unnecessary.

Nevertheless, because of the need to ensure service for passengers who require oxygen during air travel, the FAA believes it is necessary to create a regulatory structure to ensure that passengers may continue to use POCs on board aircraft even when an operator does not choose to assess a POCs electromagnetic emissions, or assess the aircraft they operate for PED tolerance. Although aircraft operators conducting part 121, 125, and 135 operations are the only entities authorized to provide medical oxygen for use on their aircraft during these operations, they are not required to do so. Those carriers that do provide medical oxygen typically charge for the service although many carriers simply do not offer medical oxygen at all; and, it can be difficult for the passenger to coordinate oxygen service between the carrier and a supplier of medical oxygen at the terminal, leaving gaps in oxygen service during travel. POCs, however, provide an effective alternative for passengers requiring uninterrupted oxygen therapy during travel. The current practice used by POC manufacturers to demonstrate that POC electromagnetic emissions do not cause interference with aircraft equipment is an effective way to ensure that POCs will be available for continuous use for the duration of a passenger's travel, including all phases of flight and movement on the surface.

Thus, consistent with the current practice, the agency proposes to require POC manufacturers to conduct a POC EMI assessment in accordance with RTCA DO–160G, Section 21, Category M[10] for each POC the manufacturer intends to market for use on aircraft and label as compliant with FAA POC acceptance criteria. As currently permitted, a POC that tests below the maximum emission threshold contained in RTCA DO–160G, Section 21, Category M, in all modes of operation, may be used on board the aircraft during all phases of flight without any additional testing by the aircraft operator. In addition, POCs currently approved by the FAA that have demonstrated emissions below the maximum emissions threshold in DO–160G, Section 21, Category M will not need to be retested prior to use on board aircraft. The agency also proposes to add POCs to the list of devices excepted from the general PED testing requirements in §§ 121.306, 125.204, and 135.144 because the testing requirements in §§ 121.306, 125.204, and 135.144 are redundant and unnecessary for POCs that have completed POC EMI assessments in accordance with RTCA DO–160, Section 21, Category M.

The agency seeks comment on an alternate approach to the acceptance criterion pertaining to POC-specific EMI assessments that would eliminate redundancy in those instances when operators test aircraft for PED tolerance without affecting the opportunity for POC use on aircraft. Specifically, the agency seeks comment on an alternative to the proposed acceptance criterion pertaining to POC-specific EMI assessments that would allow POC electromagnetic emissions to be assessed under the general PED regulatory structure in existing §§ 121.306, 125.204, and 135.144. Under this alternate approach, the agency assumes that manufacturers would continue to voluntarily complete the RTCA testing they complete today if they want a POC to be available for use on aircraft because not all operators have conducted aircraft assessments of PED tolerance. The agency seeks comment on how this alternative approach to POC EMI assessments would affect passenger use of POCs on aircraft and whether this alternative would result in possible burdens on passengers and aircraft operators.

Further, the agency recognizes that other Federal agencies may require electromagnetic compatibility assessments that may test to standards that could be used to demonstrate compliance with the generally applicable PED requirements. Accordingly, the agency seeks comment on (1) whether there are other electromagnetic compatibility assessments that POC manufacturers complete, that test to a standard that is technically equivalent to the standard in RTCA DO–160G, Section 21, Category M, and (2) whether there are any differences in the standards of any alternate emissions assessments.

3. Hazardous Materials

PHMSA is responsible for regulating and ensuring the safe and secure movement of hazardous materials by all modes of transportation, including aviation. To minimize threats to life, property or the environment due to hazardous materials related incidents, PHMSA's Office of Hazardous Materials Safety develops regulations (the Hazardous Materials Regulations (HMR) (49 CFR parts 171 through 180)) and standards for classifying, handling and packaging shipments of hazardous materials within the United States.

POCs typically operate using either rechargeable batteries (usually lithium ion) or AC/DC electrical power via an external power cord. Although the POC units themselves are not considered hazardous materials, the lithium or lithium ion batteries often used to power these units are hazardous materials subject to PHMSA regulations for the transportation of batteries and the carriage of batteries by aircraft passengers.[11]

[8] The FAA notes that while RTCA made significant changes to DO–160 since edition E was issued (December 9, 2004) and cited in agency guidance, Section 21, Category M (applicable to POCs) was not revised in either DO–160F or DO–160G.

[9] *See* Advisory Circular 120–95, Portable Oxygen Concentrators, Advisory Circular 91–21.B, Use of Portable Electronic Devices Aboard Aircraft.

[10] The FAA intends to incorporate RTCA DO–160G, Section 21, Category M by reference in §§ 121.574, 125.219 and 135.91.

[11] On July 29, 2014, PHMSA issued a final rule, ''Hazardous Materials: Transportation of Lithium Batteries'' (RIN 2137–AE44). *See* 79 FR 46012 (August 6, 2014). Compliance with this final rule is required six months after the date of publication in the **Federal Register**, February 6, 2015. For purposes of this NPRM, the relevant changes that will be put in place by the PHMSA final rule are those that (1) remove *Special Provision* 188 and relocate it, in part, to a revised 49 CFR 173.185; (2) replace equivalent lithium content with Watt-hours for lithium ion cells and batteries; and (3) revise the HMR exceptions for hazardous materials carried by aircraft passengers and crewmembers. The revisions to the HMR exceptions for hazardous materials carried by aircraft passengers and crewmembers will take a more conservative approach than existing regulations (i.e., requiring approval by the air operator for the carriage of spare lithium ion batteries larger than 8 grams (approximately 100 Wh) and reducing the maximum Watt-hours for spare lithium ion batteries from 300 Wh to 160 Wh)). However, given that compliance with the PHMSA final rule will not be required until after the close of the comment period for this NPRM, for purposes of the passenger and crewmember

In general, a lithium ion battery that is more than 8 grams aggregate lithium content (approximately 100 Wh) must satisfy the shipping and packaging requirements of the HMR. *See* 49 CFR 173.185. Lithium ion batteries of 8 grams or less aggregate lithium content (approximately 100 Wh) are exempt from most requirements of the HMR. *See* 49 CFR 173.185.

The agency notes however, that PHMSA allows exceptions for the carriage of specified hazardous materials on board aircraft when carried by aircraft passengers or crewmembers, provided certain requirements are met. For example, aircraft passengers may carry an unlimited number of lithium ion batteries of 8 grams (100 Wh) or less and up to two lithium ion batteries of 8 grams up to 25 grams (100–300 Wh) if each spare battery is protected to prevent short circuits. Beginning on February 6, 2015, compliance with a more conservative upper limit of 160 Wh will be required. *See* 79 FR 46012 (August 6, 2014); 49 CFR 175.10(a)(18).[12]

SFAR No. 106 allows passengers to use one of the specific POCs identified in the SFAR only if the POC does not contain hazardous materials as determined by the PHMSA Administrator. *See* SFAR No. 106, section 2(1). Under the authority of SFAR No. 106, the agency requires POC manufacturers to obtain a determination letter from PHMSA stating the POC does not contain hazardous materials as one of the prerequisites for the FAA to identify the POC in the SFAR. (PHMSA reviews information provided by the POC manufacturer for each POC model as the basis for this determination letter.) Although the agency proposes to maintain the broad prohibition on hazardous materials in POCs used by passengers on board aircraft, the agency proposes to remove the current requirement for a PHMSA determination letter confirming the POC does not contain hazardous materials. The PHMSA determination letter is unnecessary given the prohibition on hazardous materials in POCs.

Further, this proposal provides direct references to PHMSA regulations (the HMR) including the exceptions for passengers identified in 49 CFR 175.10. As a result, up to two batteries larger than those currently permitted by SFAR No. 106 may be carried to power POCs that are used on board aircraft. SFAR No. 106 does not contain any specific language regarding the aggregate lithium content of any battery used to power a POC (installed or spare). However, given the SFAR No. 106 prohibition of hazardous materials in a POC, SFAR No. 106 does effectively limit lithium ion batteries to 8 grams or less aggregate lithium content. A lithium ion battery with more than 8 grams aggregate lithium content is subject to the requirements of the HMR. *See* 49 CFR 173.185. Consequently, in accordance with the limits of SFAR No. 106, aircraft passengers are not permitted to use or carry a POC with a lithium battery or a spare lithium battery that is larger than 8 grams. However, the FAA notes this battery limitation does not apply to other portable electronic devices powered by lithium ion batteries being used or carried in accordance with aircraft passenger and crew exceptions in 49 CFR 175.10(a)(18).

Currently, neither the HMR nor SFAR No. 106 limits the number of lithium ion batteries that passengers may carry. Passengers using or carrying POCs on board aircraft may carry as many lithium ion batteries as they wish as long as each battery has an aggregate lithium content of 8 grams or less and the batteries are carried in carry-on baggage only. By allowing the exceptions in 49 CFR 175.10 to apply to POCs, passengers would also be able to carry and use up to two batteries larger than 8 grams, but not more than 25 grams aggregate lithium content (approximately 300 Wh) to power their POCs subject to the limitations of 49 CFR 175.10(a)(18).[13] *See* 79 FR 46012 (August 6, 2014).

While this proposed rule would expand battery options for passengers who use POCs, it would remain consistent with the level of lithium ion battery safety established by PHMSA. In 2007, after an evaluation of the transportation mode, battery size, quantity of batteries, product design, and emergency response, PHMSA (in consultation with the FAA), issued a final rule on the transportation of lithium batteries. In this 2007 final rule, PHMSA imposed stricter and more effective safeguards for the transportation of certain types and sizes of lithium batteries in certain transportation contexts, while at the same time providing an exception from these requirements for the carriage of lithium ion batteries by passengers in passenger carrying aircraft operations. While PHMSA acknowledged that lithium batteries are considered a hazardous material for purposes of transportation regulation because they can overheat and ignite in certain conditions, like certain other products that contain hazardous materials PHMSA determined that lithium batteries can be safely transported provided appropriate precautions are taken in design, packaging, handling, and emergency response as prescribed by the HMR. *See* 72 FR 44930, 44930 (August 9, 2007).

After consideration of the current PHMSA requirements applicable to lithium batteries carried in accordance with § 175.10(a)(18) and the pending PHMSA amendments pertaining to the carriage of lithium ion batteries on aircraft, the FAA has determined that SFAR No. 106 is unnecessarily restrictive with regard to battery size. Accordingly, this proposal allows batteries of expanded size to be installed in POCs or carried as spares to be used with POCs.

4. Maximum Oxygen Pressure

As previously discussed, the SFAR No. 106 acceptance process requires POC manufacturers to obtain a PHMSA determination letter stating the POC device does not contain any hazardous materials. As part of this determination, PHMSA reviews information provided by the POC manufacturer regarding the oxygen pressure generated by a POC. If the POC generates oxygen pressure of 200 kPa gauge (29.0 psig/43.8 psia) or greater at 20 °C (68 °F), PHMSA would classify the POC as an article containing Hazard Class 2, Division 2.2 (non-flammable, non-poisonous compressed gas) and the POC would be subject to the applicable HMR (49 CFR 173.115). However, a POC does not contain a compressed gas subject to the HMR if it generates an oxygen pressure below this threshold.

The FAA believes this operating pressure restriction should continue to be applied so as to ensure that POCs used on board aircraft will not present the hazards associated with compressed oxygen. Accordingly, the agency

exceptions, the FAA continues to refer to the lithium ion battery requirements that will remain in effect until compliance with the new regulations pertaining to these exceptions is required. In light of this circumstance, the FAA requests that any comments pertaining to lithium ion batteries used in POCs or carried as spares for POCs, consider the impact of the PHMSA final rule.

[12] The lithium ion battery exception was drafted to be consistent with the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions) at the time of the rulemaking. *See* 72 FR 44930, 44937 (August 9, 2007). The ICAO Technical Instructions have since been updated. PHMSA evaluated the updated ICAO Technical Instructions in a separate rulemaking initiative that has recently resulted in a final rule amending the lithium ion battery exception. *See* 79 FR 46012 (August 6, 2014).

[13] As previously noted, beginning on February 6, 2015, the upper limit for the maximum Watt-hours will be reduced from 300 Wh to 160 Wh and approval of the air operator will be required to carry these larger batteries. *See* 79 FR 46012 (August 6, 2014).

proposes to include a design standard establishing a maximum oxygen pressure allowed for POCs intended for use on board aircraft of less than 200 kPa gauge (29.0 psig/43.8 psia) at 20 °C (68 °F). Under the proposed rule, a POC that exceeds this threshold could not be labeled as meeting the standards for use on board aircraft.

The agency believes that inclusion of the requirement regarding oxygen pressurization does not overlap with 49 CFR 173.115, because it applies a design standard regarding the operation of the device. Further, it addresses concentrated oxygen that falls below the pressure threshold for the definition of compressed gasses subject to 49 CFR 173.115.

D. Manufacturer Certification and Labeling

Currently, the agency does not require manufacturers to label a POC approved for use in accordance with SFAR No. 106 to certify or indicate compliance with the standards in SFAR No. 106. Instead, the agency conducts a review of each individual POC when a manufacturer seeks to market its POC for use on board aircraft. If the agency determines the POC meets the criteria for FAA approval for use on board aircraft, it amends SFAR No. 106 to add the specific POC model.

As previously discussed, the FAA proposes to replace its current case-by-case POC approval process with acceptance criteria. To certify POC compliance with the acceptance criteria, the FAA proposes to require manufacturers to affix a label to the POC certifying it meets the FAA acceptance criteria. The FAA's proposed labeling requirement is the only element of the proposal that is not based on SFAR No. 106.

The FAA proposes to require the label to contain the following statement: ''The manufacturer of this portable oxygen concentrator has determined this device conforms to all applicable FAA requirements for portable oxygen concentrator carriage and use on board aircraft.'' The agency proposes to require manufacturers to use red lettering for this statement to facilitate recognition of the POC by passengers and crewmembers. The label would also serve to inform the user that the POC is safe for use in the cabin during all phases of flight because one of the proposed acceptance criteria is the completion of EMI testing in accordance with RTCA DO–160G, Environmental Conditions and Test Procedures for Airborne Equipment, Section 21, Category M.

The agency also proposes to require POC manufacturers to use a labeling method that would ensure that the label remains affixed for the life of the device. The purpose of this requirement is to ensure the label cannot be transferred to another type of oxygen dispensing device presenting a higher safety risk without corresponding mitigation measures (e.g. a device that uses compressed oxygen).

Further the proposed labeling requirement is consistent with recommended labeling practices described in InFO 09006, Department of Transportation (DOT) Final Rule, ''Nondiscrimination on the basis of Disability in Air Travel'' and the Use of Respiratory Assistive Devices on Aircraft, and anticipated in the DOT final rule ''Nondiscrimination on the basis of Disability in Air Travel.'' *See* 73 FR 27614, 27630 (May 13, 2008). The agency reiterates only those manufacturers intending to market their devices for use on board aircraft must comply with the acceptance criteria in this proposal. This proposal does not affect other Federal agencies' regulatory requirements applicable to POCs. Accordingly, POC manufacturers that choose not to comply with the acceptance criteria required for POC use on board aircraft would not be subject to the FAA's proposed POC labeling requirement, and in that case, a passenger would not be permitted to use the non-labeled POC on board an aircraft in part 121, 125, or 135 operations.

The FAA believes POC manufacturers wishing to market their POCs for use on board aircraft will be able to readily comply with this proposed labeling requirement. As discussed in the Regulatory Notices and Analysis section of this preamble, the FAA assumes most POC manufacturers currently affix labels to POCs and thus this proposed labeling requirement should result in minimal costs.

This proposed labeling requirement would not apply to POCs currently approved under SFAR No. 106, as the FAA believes it is not necessary or practical to require POC manufacturers to label POCs identified in SFAR No. 106 as approved for use on board aircraft. POC models previously listed in SFAR No. 106 as approved for use on board aircraft have satisfied SFAR No. 106 criteria and would also satisfy the proposed acceptance criteria. In addition, the FAA expects use of POCs already listed in SFAR No. 106 will lessen over time as the POCs age and their users replace older models with newer ones obviating the need to retrofit existing POC models with a label.

Thus, the FAA proposes including in the regulatory text of §§ 121.574, 125.219, and 135.91, the list of POC models currently identified in SFAR No. 106 to assist with their identification by crewmembers. The FAA notes that a POC manufacturer could elect to place a label on a POC previously approved under SFAR No. 106 indicating the POC complies with the FAA's requirements for POCs used on board aircraft. Although, the agency is not proposing to require a label for POCs identified in SFAR No. 106, the FAA seeks comment on the potential safety benefits and associated burdens of extending the proposed labeling requirement to all POC models currently identified in SFAR No. 106—existing and newly manufactured or just newly manufactured.

Finally, the agency is aware that some manufacturers of POCs identified in SFAR No. 106 currently apply a label to those POCs indicating FAA approval for use on board aircraft. The agency clarifies however, this label does not provide a means by which a certificate holder, crewmember or passenger may determine compliance with SFAR No. 106 or with this proposal. The only label that may be used to determine compliance with this proposal and to ascertain whether a POC may be used on board an aircraft is a label that exhibits the verbiage and color criteria specifically provided in the proposal.

To mitigate any potential confusion that may arise from a POC label indicating FAA approval that pre-dates the labeling proposal in this NPRM, certificate holders, crewmembers and passengers must determine whether a particular POC may be used on a part 121, 125, or 135 operation by either (1) identifying the specific POC on the list of POC models approved for use on board aircraft under SFAR No. 106 and incorporated into the proposed regulatory text; or (2) by reviewing the manufacturer's certification statement on the label prescribed by this proposal.

E. Prohibition on Smoking or Open Flame

Consistent with SFAR No. 106, the FAA proposes to retain the existing prohibition on smoking or open flame within 10 feet of any person using a POC. Although the risk posed by concentrated oxygen is minimal when generated at a pressure below that which would trigger the application of the HMR, given the unique environment of an aircraft, the agency has determined that it is reasonable to provide an additional margin of safety by prohibiting smoking or open flame in the vicinity of a person using a POC.

Accordingly, the agency proposes to maintain the existing prohibition on smoking or open flame within 10 feet of a person using a POC by extending the smoking prohibitions in existing §§ 121.574, 125.219, and 135.91 to POCs and adding language specifically prohibiting an open flame.

The prohibition on smoking in existing §§ 121.574, 125.219, and 135.91 effectively results in a prohibition on an open flame. However, given the risks created by smoking near a person using medical oxygen and the storage of such oxygen, the agency proposes to explicitly prohibit an open flame in addition to smoking as in SFAR No. 106. The agency also proposes to amend the regulatory text in § 125.219(b) to clarify that smoking is not only prohibited within 10 feet of where medical oxygen is being used but that it is also prohibited within 10 feet of where it is stored. This clarification is consistent with the preamble for the final rule issuing § 125.219 as well as the prohibitions on smoking within 10 feet of the location of medical oxygen storage or use in §§ 121.574 and 135.91. *See* 45 FR 67214, 67230 (October 9, 1980).

F. Discussion of Special Federal Aviation Regulation No. 106 Requirements Excluded From Proposal

As previously noted, this rule proposes that several requirements currently contained in SFAR No. 106 be included in the new regulations establishing acceptance criteria for POCs. The FAA has determined, however, that many of the requirements currently included in SFAR No. 106 are overly prescriptive or redundant with existing rules and are therefore not necessary. Accordingly, the FAA is not proposing to include them in this rule. A discussion of the SFAR No. 106 requirements excluded from this proposal and the rationale therefore follows.

1. Special Federal Aviation Regulation No. 106 Requirements Addressed in Existing Regulations

a. Stowage of Portable Oxygen Concentrators on Board Aircraft

SFAR No. 106, section 3(a)(3) states that during movement on the surface, takeoff, and landing, the POC must (1) either be stowed under the seat in front of the user, or in another approved stowage location, so as not to block the aisle way or entryway into a row; or (2) if it is to be operated by the user, be used only at a seat location that does not restrict any passenger's access to, or use of, any required emergency or regular exit, or the aisle(s) in the passenger compartment.

Existing FAA regulations in parts 121, 125, and 135, address the stowage of carry-on items and carriage of cargo in the passenger cabin to ensure an appropriate stowage location and emergency exit row access is not hindered by carry-on items or cargo. *See* §§ 121.285, 121.589, 125.183, and 135.87. Thus, the stowage requirement in SFAR No. 106 is unnecessary and the FAA is proposing to eliminate it.

Notably, the user manuals for 18 of the POC models currently approved under SFAR No. 106 specify oxygen tube length. Every manual specifying oxygen tube length indicates the associated POC has at least 7 feet of tubing, which is long enough to allow a passenger to continue to use the unit while stowed under a seat.

b. Passenger Movement About the Cabin While Using a Portable Oxygen Concentrator

SFAR No. 106, section 3(a)(6) states, ''Whenever the pilot in command turns off the 'Fasten Seat Belt' sign, or otherwise signifies that permission is granted to move about the passenger cabin, passengers operating their portable oxygen concentrator may continue to operate it while moving about the cabin.''

The agency included this provision in SFAR No. 106 in response to commenters' concerns that limitations on the ability of medical oxygen users to move around the cabin during flight, would apply to POC users. In the final rule implementing SFAR No. 106, the agency specifically stated that passengers are allowed to use a POC for the duration of the flight, including during movement on the surface, takeoff, and landing. The agency also stated that once passengers were allowed to move about the cabin of the aircraft, they would be allowed to bring the POC with them. *See* 70 FR at 40159.

The proposed revisions to §§ 121.574, 125.219, and 135.9, distinguish requirements applicable to passengers carrying and using POCs from requirements applicable to passenger use of other equipment for the storage, generation or dispensing of oxygen. Therefore, if this proposed rule is finalized, a provision similar to section 3(a)(6) of the SFAR would be unnecessary.

c. Exit Row Seating

SFAR No. 106, section 3(a)(4) states that no person using a POC is permitted to sit in an exit row. The FAA believes this requirement is unnecessary because current regulations in parts 121 and 135 require the certificate holder to determine the suitability of passengers it permits to occupy exit row seats. *See* 14 CFR 121.585 and 135.129. For example, a person using a POC may not be qualified to sit in an exit row if the POC would inhibit the passenger's ability to handle the emergency exit and assist other passengers exiting the aircraft. Therefore, the FAA proposes to eliminate this SFAR No. 106 requirement.

The FAA notes that part 125 does not specifically address the suitability of passengers for exit row seating. However, this proposed rule does not affect the ability of part 125 operators to apply their current seating policies.

d. Protection of Batteries From Short Circuit

SFAR No. 106, section 3(b)(6) requires passengers to ensure all POC batteries carried on board the aircraft in carry-on baggage are protected from short circuit and are packaged in a manner that protects them from physical damage. Batteries protected from short circuit include: (1) Those designed with recessed battery terminals; or (2) those packaged so that the battery terminals do not contact metal objects (including the battery terminals of other batteries). When a battery-powered POC is carried on board aircraft as carry-on baggage, and is not intended to be used during the flight, the battery must be removed and packaged separately unless the POC contains at least two effective protective features to prevent accidental operation and potential overheating of the battery within the POC during transport.

The portion of SFAR No. 106, section 3(b)(6) addressing spare batteries is redundant with PHMSA regulations applicable to spare batteries carried by passengers on board aircraft. PHMSA regulations require spare batteries carried on board aircraft to be individually protected from short circuit to mitigate the risk of a fire during flight. *See* 49 CFR 175.10(a)(18). Thus, SFAR No. 106 provisions applicable to spare batteries carried by passengers on board aircraft for use in POCs are unnecessary and excluded from this proposal.

However, the SFAR diverges from PHMSA requirements pertaining to installed batteries. *See* 49 CFR 175.10(a)(18). The SFAR requires a passenger to remove a POC battery if the device does not have at least two features that prevent accidental operation. Existing PHMSA regulations do not require an installed battery to be removed from any PED, which would include a POC that is not in use. *See* 49 CFR 175.10(a)(18).

Based on the agency's review of the 24 POC models currently accepted for use on board aircraft, the FAA has determined those POCs all have at least two design features preventing inadvertent or accidental operation. Thus, for those POCs that are currently accepted for use on board aircraft, batteries may remain in the devices while not in use.

In addition, current PHMSA regulations address the safe transportation of lithium ion batteries as well as passenger carriage of lithium ion batteries. Specifically, PHMSA requires all lithium ion batteries to include overcharge protection and testing that prevents a battery from overheating and preventing a fire. Lithium batteries must be of a type proven to meet the requirements of each test, including Test T.7 (Overcharge), in Section 38.3 of the UN Manual of Tests and Criteria. *See* 49 CFR 173.185.

Based on the analysis of current approved POCs and applicable HMR, an independent FAA requirement for two protective features as a prerequisite to leaving an installed battery in a POC is unnecessary. All POCs currently used on board aircraft are equipped with two protective features and all batteries available for new devices must be equipped with overcharge protection, therefore, the risk of a fire originating from the battery is minimal. Accordingly, the FAA did not propose to retain this provision in the NPRM.

2. Special Federal Aviation Regulation No. 106 Requirements Excluded in Their Entirety

a. Physician Statement and Pilot in Command and Aircraft Operator Notification Requirements

SFAR No. 106, section 3(b)(3) requires passengers intending to use a POC to have a written statement, to be kept in that person's possession, signed by a licensed physician that: States whether the user of the device has the physical and cognitive ability to see, hear, and understand the device's aural and visual cautions and warnings and is able, without assistance, to take the appropriate action in response to those cautions and warnings; states whether or not oxygen use is medically necessary for all or a portion of the duration of the trip; and specifies the maximum oxygen flow rate corresponding to the pressure in the cabin of the aircraft under normal operating conditions.

Section 3(b)(3) of SFAR No. 106 further requires a passenger to inform the aircraft operator that he or she intends to use a POC on board the aircraft and must allow the crew of the aircraft to review the contents of the physician's statement. Similarly, SFAR No. 106, section 3(a)(5) requires pilot in command notification whenever a passenger brings and intends to use a POC on board the aircraft. The pilot in command must also be informed about the contents of the physician's written statement including the nature of the passenger's oxygen needs and the passenger's ability to understand operational and warning information presented by the POC.

The FAA has reconsidered the requirements for a physician's statement, as well as pilot notification of the contents of the physician's statement, and operator notification of intended POC use, and believes that these requirements are not necessary to maintain the safety of a passenger using a POC or the safe operation of the aircraft. The requirements for a physician's statement and pilot in command and operator notification impose a significant paperwork burden on affected passengers and their physicians as well as crewmembers and aircraft operators that are both unnecessary and unreasonable. Accordingly, the agency proposes to remove these requirements.

Physician statement: When the agency issued the final rule on SFAR No. 106, the agency anticipated the passenger's physician would help the passenger determine their need to use the POC during flight (e.g., during the whole flight, during portions of the flight, or as needed). At the time of the SFAR No. 106 final rule, the agency also expected a passenger's physician to verify, in a written statement, the passenger's ability to operate the device and respond to any alarms. After reviewing this requirement the agency determined, since a passenger may only obtain a POC by medical prescription, a secondary statement regarding the need and the passenger's ability to use the device, results in an unnecessary burden.

Additionally, POC usage is the same on board the aircraft as any other location. The pressure in the aircraft cabin allows a POC to be used without changes in settings or liter flow, or other adjustments. Requiring passengers to obtain a physician's statement specifying oxygen flow rate unnecessarily duplicates information provided to the passenger by the prescribing physician. Therefore, this proposal would eliminate the current FAA requirement for passengers to obtain a physician's statement prior to using a POC on board an aircraft in part 121, 125, and 135 operations.[14]

Pilot and aircraft operator notification: In the SFAR No. 106 final rule preamble, the FAA reasoned that the pilot in command should be aware of POC use on a flight because POC failure could possibly create a medical event requiring emergency action. Additionally, because some POCs may use electrical outlets in the cabin, the FAA wanted the pilot in command to be aware that a power restriction could affect POC use so that the pilot could make an appropriate announcement if the use of that power needed to be restricted. The SFAR No. 106 preamble was unclear regarding reasons for operator notification of intended POC use.

The agency has reevaluated the requirement for the pilot in command to be informed about the contents of the physician's written statement and determined that a requirement for any crewmember to review an affected passenger's medical information has no nexus to the safety of aircraft operations. Further, unlike other medical oxygen devices for passenger use that must be maintained and supplied by aircraft operators, neither an aircraft operator nor its crew has any responsibility for the operation of the POC or the concentration of oxygen dispensed. The responsibility for the use of a passenger's POC rests with the passenger.

Finally, based on a review of air carrier safety data[15] since publication of SFAR No. 106, the agency has not identified any instances of POC malfunction during flight. Nevertheless, the agency notes that while advanced notice that a passenger may need assistance in the event of POC failure could be helpful to crewmembers, crewmembers currently receive training on how to respond to unanticipated events that may arise on board an aircraft, including medical events. Based on the foregoing discussion, the agency's proposal would eliminate the requirement for passengers to notify the pilot in command of intended POC use

[14] Pursuant to Department of Transportation regulations, U.S. and foreign air carriers may require passengers who expect to use a POC during flight to obtain a physician's statement (i.e., medical certificate) as a condition of transportation. *See* 14 CFR 382.23(b)(1)(ii).

[15] The agency reviewed data from the following accident, incident and voluntary reporting databases: Voluntary Disclosure Reporting Program (VDRP), Service Difficulty Reporting System (SDRS), National Transportation Safety Board Aviation Accident and Incident Data Systems (NTSB), National Aeronautics and Space Administration Aviation Safety Reporting System (ASRS) and FAA Accident/Incident Data System (AIDS).

and the contents of the physician's statement. The same rationale applies to the agency's proposal to eliminate the requirement for passengers to notify the aircraft operator of intended POC use during a flight.

b. Portable Oxygen Concentrator Alarms

SFAR No. 106, section 3.(b)(1) requires a passenger using a POC on an aircraft to be capable of hearing the unit's alarms and seeing alarm light indicators. SFAR No. 106 also requires passengers using a POC to have the cognitive ability to take appropriate action in response to the various POC caution alarms, warning alarms and alarm light indicators, or travel with someone capable of performing those functions. These requirements are based on information in the user manual of the first POC approved by the FAA. *See* 69 FR at 42325. Based on a review of 20 user manuals for POCs identified in SFAR No. 106, the agency has determined POC alarms may provide information regarding the general operation of the POC, as well as information regarding the power source and detection of the POC user's breath.

The FAA believes it is the responsibility of the passenger or the passenger's caregiver to ensure the POC is operating properly and to know how to respond when it is not operating properly. The agency further believes removing this requirement will not affect aviation safety because these alarms are primarily intended to ensure the device continues to function as intended. The FAA also emphasizes that it has not identified any incidents regarding POC malfunctions on board aircraft.[16] Therefore, the FAA is proposing to eliminate this SFAR No. 106 requirement (section 3(b)(1)).

c. Ensuring the Portable Oxygen Concentrator is Free of Petroleum Products

SFAR No. 106, section 3(b)(2) requires the user to ensure the POC is free of oil, grease, or other petroleum products and is in good condition free from damage or other signs of excessive wear or abuse. The NPRM proposing SFAR No. 106 stated this provision is similar to a warning statement found in the user manual of the first POC approved by the FAA and to a provision in the medical oxygen rules (§§ 121.574, 125.219, and 135.91).

The FAA does not believe this requirement is necessary to ensure safe POC use in the aircraft environment. While the agency acknowledges petroleum products may accelerate an existing fire, neither a POC nor concentrated oxygen produced by the POC would increase this risk. Further, the volume of petroleum products necessary to accelerate a fire is unlikely to be found on the exterior of a POC, and this concern is not addressed as a specific requirement for other PEDs carried on board aircraft. The agency notes it is the passenger's responsibility to maintain their POC in good condition so that it may function properly. Therefore, the agency proposes eliminating the SFAR No. 106 requirement for a passenger to ensure their POC is in good condition (free of damage, excessive wear, abuse, etc.) and free of oil, grease, or other petroleum products.

d. Use of Salves and Lotions

SFAR No. 106, section 3(b)(4) states only oxygen approved lotions or salves may be used by persons using a POC on an airplane. This requirement came from the user manual of the first POC approved by the FAA. The FAA believes it is the passenger's responsibility to ensure they are using products meeting the manufacturer's requirements for salve and lotion usage with a POC. To the extent SFAR No. 106 contemplated a petroleum-based lotion or a salve, the risk and responsibilities are addressed in the discussion pertaining to the elimination of the requirement for the user to ensure that the POC is free from petroleum products and associated risks. Therefore, the FAA is proposing to eliminate section 3(b)(4) of SFAR No. 106.

e. Carriage of a Sufficient Number of Batteries

SFAR No. 106, section 3(b)(5) requires passengers intending to use a POC during a flight to obtain from the aircraft operator, or by other means, the duration of the planned flight. The passenger must carry on the flight a sufficient number of batteries to power the device for the duration of the oxygen use specified in the passenger's physician statement, including a conservative estimate of any unanticipated delays.

The FAA believes it is the passenger's responsibility to understand the performance of their POC and their POCs battery life under varying conditions, and further to ensure their POC will enable them to adhere to their physician's instructions. Passengers who use a POC during air travel should carefully read the owner's manual to ensure the selected model meets their needs. All POC user manuals have liter flow and battery duration charts to help users make informed decisions regarding the number of spare batteries to bring. Therefore, the FAA proposes to eliminate this SFAR No. 106 requirement.

The FAA notes, however, that in accordance with DOT regulations regarding assistive devices, U.S. and foreign carriers may still require passengers to carry an adequate number of batteries required to power the POC for not less than 150% of the expected maximum flight duration. *See* 14 CFR 382.133(f)(2).

G. Miscellaneous

The agency proposes to update a cross reference to the HMR that appears in §§ 121.574(a)(3), 125.219(a)(3), and 135.91(a)(3) and pertains to the definition of a compressed gas.

VI. Advisory Circulars

The FAA expects to revise the existing Advisory Circular pertaining to POC use on aircraft in part 121, 125 and 135 operations. A draft revised Advisory Circular will be provided in the docket of this rulemaking for comment.

VII. Regulatory Notices and Analyses

A. Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposed rule.

[16] The agency reviewed data from the following accident, incident and voluntary reporting databases: VDRP, SDRS, NTSB, ASRS and AIDS.

The agency suggests readers seeking greater detail read the full regulatory evaluation, a copy of which has been placed in the docket for this rulemaking.

In conducting these analyses, FAA has determined that this proposed rule: (1) Has benefits that justify its costs, (2) is not an economically ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, (3) is not ''significant'' as defined in DOT's Regulatory Policies and Procedures; (4) would not have a significant economic impact on a substantial number of small entities; (5) would not create unnecessary obstacles to the foreign commerce of the United States; and (6) would not impose an unfunded mandate on state, local, or tribal governments, or on the private sector by exceeding the threshold identified above. These analyses are summarized below.

Total Benefits and Costs of This Rule

The FAA estimates that the cost of the proposed rule would be a one-time cost of $22,000 incurred by manufacturers to modify a label and would be associated with costs that manufacturers would incur to change their current labeling process to affix a label with the proposed language on the devices. The FAA also estimated that manufacturers would save $108,000 over ten years by no longer having to petition the FAA for rulemaking to include a new Portable Oxygen Concentrator (POC) in the SFAR No. 106. The total cost savings from the proposed rule is $37.4 million ($26.1 million at 7% present value and $31.8 million at 3% present value).

Who is potentially affected by this rule?

- POC manufacturers
- Passengers carrying POCs on board aircraft
- Physicians providing written statements to POC users
- Aircraft operators and crews

Assumptions:

- Present Value Discount rates—7% and 3%
- Period of Analysis—ten years
- 24 new POCs over ten years

Benefits of This Rule

With the elimination of the SFAR and the replacement with a process where the manufacturers self-certify based on meeting the acceptance criteria described in the rule and label the devices, manufacturers would be able to introduce new POCs sooner to the market. Therefore, one benefit of this rule would be to eliminate delays and enable manufacturers to bring their devices to market sooner.

Furthermore, the proposed rule would result in cost savings because the pilot in command would no longer have to be notified when an affected passenger intends to use a POC on the aircraft and be informed about the contents of the physician's written statement. The proposed rule would also result in additional cost savings because affected passengers would no longer have to obtain a physician's written statement, as a prerequisite to bringing POCs on board aircraft in part 121, 125, and 135 operations.

The cost savings of this proposal are summarized in the table below.

Total Cost Savings from Proposed Rule

Cost Savings				7% present value savings	3% present value savings
FAA Savings - No SFAR			$ 91,644	$ 68,871	$ 32,573
Manufacturer Savings - No Petition			$108,000	$75,853	$92,126
No Longer Obtaining Physician's statement			$559,660	$391,402	$476,509
No Longer Notifying Pilot in Command			$36,599,268	$25,595,997	$31,161,620
Total Cost Savings			$37,358,571	$26,132,123	$31,762,828

Costs of This Rule

The industry would incur costs of $22,000 to modify labels that they already affix to the POC, to contain the language proposed by this rule. The industry cost savings of $108,000 by no longer having to petition the FAA for each new device easily exceed the labeling costs.

B. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA identified nine companies that produce portable oxygen concentrators for use on aircraft. The FAA determined that the appropriate North American Industry Classification System (NAICS) codes of these manufacturers are 339112 and 339113 and the threshold for determining whether a company is a small business is 500 employees for those industries. Through on-line research, the FAA found data [17] indicating that six of the nine manufacturers are small entities and concludes that a substantial number of manufacturers are small entities. However, the FAA does not expect the rule to impose a significant economic impact on any of these small entities because they will be able to market new portable oxygen concentrators sooner.

[17] *http://www.manta.com/.*

Although a substantial number of operators conducting part 121, 125 and 135 operations are small entities, all part 121, 125 and 135 operators are expected to experience cost savings because the proposal would no longer require the pilot in command to be apprised when a passenger brings and intends to use a POC on board the aircraft and be informed on the contents of the physician's statement as does SFAR No. 106.

The proposed rule is expected to reduce burdens that SFAR No. 106 currently imposes on the Portable Oxygen Concentrator (POC) manufacturers. This NPRM would impose small costs on manufacturers by requiring a label indicating the device meets FAA requirements for use on board aircraft. The FAA learned from five of the small manufacturers that they might incur a one-time cost ranging from $200 to $1,500 or $0.20 to $1 per label.[18] These costs would be offset by cost savings from the elimination of having to petition for rulemaking and await a final regulatory action. One manufacturer stated these cost savings are worth $4,500 for each petition.

Therefore, as provided in section 605(b), the head of the FAA certifies that this rulemaking will not result in a significant economic impact on a substantial number of small entities.

The FAA solicits comments regarding this determination.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and determined that it would have only a domestic impact and therefore no effect on international trade.

[18] A sixth manufacturer that was contacted estimated costs of $10,200, but this manufacturer is not a small business.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $151.0 million in lieu of $100 million. This proposed rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there would be no new requirements for information collection associated with this proposed rule.

This rule proposes to discontinue the requirements quantified in FAA information collection 2120–0702, Use of Certain Personal Oxygen Concentrator (POC) Devices on Board Aircraft. The agency addressed the reasons for the discontinuance of this collection in the preamble discussion regarding the substantive provisions of the proposal.

F. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. Annex 18 to the Convention on International Civil Aviation requires that dangerous goods are carried in accordance with the ICAO Technical Instructions on the Transport of Dangerous Goods by Air (ICAO TI). ICAO TI does not contain specific provisions for POCs but Part 8 (passenger and crew exceptions) allows for their carriage on board aircraft as portable medical electronic devices subject to certain conditions. The conditions in Part 8 pertaining to batteries used to power POCs are similar to the allowances given in 49 CFR 175.10(a)(18).

G. Executive Order 13609, Promoting International Regulatory Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation, (77 FR 26413 (May 4, 2012)) promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action would have no effect on international regulatory cooperation.

H. Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312f and involves no extraordinary circumstances.

VIII. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. The agency has determined that this action would not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, would not have Federalism implications.

B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it would not be a ''significant energy action'' under the executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

IX. Additional Information

A. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites

comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The agency may change this proposal in light of the comments it receives.

Proprietary or Confidential Business Information: Commenters should not file proprietary or confidential business information in the docket. Such information must be sent or delivered directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document, and marked as proprietary or confidential. If submitting information on a disk or CD ROM, mark the outside of the disk or CD ROM, and identify electronically within the disk or CD ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), if the FAA is aware of proprietary information filed with a comment, the agency does not place it in the docket. It is held in a separate file to which the public does not have access, and the FAA places a note in the docket that it has received it. If the FAA receives a request to examine or copy this information, it treats it as any other request under the Freedom of Information Act (5 U.S.C. 552). The FAA processes such a request under Department of Transportation procedures found in 49 CFR part 7.

B. Availability of Rulemaking Documents

An electronic copy of rulemaking documents may be obtained from the Internet by—

- Searching the Federal eRulemaking Portal at *http://www.regulations.gov;*
- Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies* or
- Accessing the Government Printing Office's Federal Digital System at *http://www.gpo.gov/fdsys/.*

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed from the Internet through the Federal eRulemaking Portal referenced above.

List of Subjects

14 CFR Part 1

Air transportation.

14 CFR Part 121

Air carriers, Aircraft, Aviation safety, Charter flights, Incorporation by reference, Safety, Transportation.

14 CFR Part 125

Aircraft, Aviation safety, Incorporation by reference.

14 CFR Part 135

Air taxis, Aircraft, Aviation safety, Incorporation by reference.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations as follows:

PART 1—DEFINITIONS AND ABBREVIATIONS

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

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

■ 2. Amend § 1.1 by adding a definition for ''*portable oxygen concentrator*'' in alphabetical order to read as follows:

§ 1.1 General definitions.

* * * * *

Portable oxygen concentrator means a medical device that separates oxygen from other gasses in ambient air and dispenses this concentrated oxygen to the user.

* * * * *

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

■ 3. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 40119, 41706, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44732, 46105; Pub. L. 111–216, 124 Stat. 2348 (49 U.S.C. 44701 note); Pub. L. 112–95, 126 Stat. 62 (49 U.S.C. 44732 note).

Special Federal Aviation Regulation No. 106 [Removed]

■ 4. Remove Special Federal Aviation Regulation No. 106.

■ 5. Amend § 121.306 as follows:

■ A. In paragraph (b)(4), remove ''or'' following the semi-colon;

■ B. Redesignate paragraph (b)(5) as paragraph (b)(6);

■ C. Add new paragraph (b)(5); and

■ D. In paragraph (c) remove the reference ''(b)(5)'' and add in its place ''(b)(6)''.

The addition reads as follows:

§ 121.306 Portable electronic devices.

* * * * *

(b) * * *

(5) Portable oxygen concentrators that comply with the requirements in § 121.574 of this part; or

* * * * *

■ 6. Amend § 121.574 as follows:

■ A. Revise section heading;

■ B. Revise paragraph (a) introductory text;

■ C. In paragraph (a)(3) remove the reference ''49 CFR 173.300(a)'' and add in its place ''49 CFR 173.115(b)'';

■ D. Revise paragraph (b); and

■ E. Add paragraphs (e) and (f).

The revisions and additions read as follows:

§ 121.574 Oxygen and portable oxygen concentrators for medical use by passengers.

(a) Except as provided in paragraph (e) of this section, a certificate holder may allow a passenger to carry and operate equipment for the storage, generation, or dispensing of oxygen when the following conditions are met:

* * * * *

(b) No person may smoke or create an open flame and no certificate holder may allow any person to smoke or create an open flame within 10 feet of oxygen storage and dispensing equipment carried in accordance with paragraph (a) of this section or a portable oxygen concentrator carried and operated in accordance with paragraph (e) of this section.

* * * * *

(e) A passenger may carry and operate a portable oxygen concentrator for personal use and a certificate holder may allow a passenger to carry and operate a portable oxygen concentrator on board an aircraft operated under this part during all phases of flight if the portable oxygen concentrator satisfies all of the following requirements:

(1) Is legally marketed in the United States in accordance with Food and Drug Administration requirements in title 21 of the CFR;

(2) Meets the standards of RTCA DO–160G, Environmental Conditions and Test Procedures for Airborne Equipment, Section 21, Category M issued December 8, 2010;

(3) Generates a maximum oxygen pressure of less than 200 kPa gauge (29.0 psig/43.8 psia) at 20 °C (68 °F);

(4) Does not contain any hazardous materials subject to the Hazardous Materials Regulations (49 CFR parts 171–180) except as provided in 49 CFR 175.10; and

(5) Bears a label on the exterior of the device applied in a manner that ensures the label will remain affixed for the life of the device and containing the following certification statement in red lettering: ''The manufacturer of this portable oxygen concentrator has determined this device conforms to all applicable FAA requirements for portable oxygen concentrator carriage and use on board aircraft.'' The label requirements in this paragraph do not apply to the following portable oxygen concentrators approved by the FAA for use on board aircraft prior to [DATE 90 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**]:

(i) AirSep Focus;
(ii) AirSep FreeStyle;
(iii) AirSep FreeStyle 5;
(iv) AirSep LifeStyle;
(v) Delphi RS–00400;
(vi) DeVilbiss Healthcare iGo;
(vii) Inogen One;
(viii) Inogen One G2;
(ix) Inogen One G3;
(x) Inova Labs LifeChoice;
(xi) Inova Labs LifeChoice Activox;
(xii) International Biophysics LifeChoice;
(xiii) Invacare Solo2;
(xiv) Invacare XPO2;
(xv) Oxlife Independence Oxygen Concentrator;
(xvi) Oxus RS–00400;
(xvii) Precision Medical EasyPulse;
(xviii) Respironics EverGo;
(xix) Respironics SimplyGo;
(xx) SeQual Eclipse;
(xxi) SeQual eQuinox Oxygen System (model 4000);
(xxii) SeQual Oxywell Oxygen System (model 4000);
(xxiii) SeQual SAROS; and
(xxiv) VBox Trooper Oxygen Concentrator.

(f) *Incorporation by reference.* RTCA DO–160G, Environmental Conditions and Test Procedures for Airborne Equipment, Section 21, Category M issued December 8, 2010 is incorporated by reference into this section with the approval of the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Federal Aviation Administration must publish notice of change in the **Federal Register** and the material must be available to the public. Copies of this standard may be obtained from RTCA, Inc. 1150 18th Street NW., Suite 910, Washington, DC 20036; telephone (202) 833–9339; *www.rtca.org/store_list.asp.* This standard is available for inspection at the Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–9677. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE; AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 7. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701–44702, 44705, 44710–44711, 44713, 44716–44717, 44722.

Special Federal Aviation Regulation No. 106 [Removed]

■ 8. Remove Special Federal Aviation Regulation No. 106.

■ 9. Amend § 125.204 as follows:

■ A. In paragraph (b)(4) remove ''or'' following the semi-colon;

■ B. Redesignate paragraph (b)(5) as paragraph (b)(6);

■ C. Add new paragraph (b)(5); and

■ D. In paragraph (c) remove the reference ''(b)(5)'' and add in its place ''(b)(6)''.

The addition reads as follows:

§ 125.204 Portable electronic devices.

* * * * *

(b) * * *

(5) Portable oxygen concentrators that comply with the requirements in § 125.219 of this part; or

* * * * *

■ 10. Amend § 125.219 as follows:

■ A. Revise section heading;

■ B. Revise paragraph (a) introductory text;

■ C. In paragraph (a)(3) remove the reference ''title 49 CFR 173.300(a)'' and add in its place ''49 CFR 173.115(b)'';

■ D. Revise paragraph (b); and

■ E. Add paragraphs (f) and (g).

The revisions and additions read as follows:

§ 125.219 Oxygen and portable oxygen concentrators for medical use by passengers.

(a) Except as provided in paragraphs (d), (e) and (f) of this section, no certificate holder may allow the carriage or operation of equipment for the storage, generation or dispensing of medical oxygen unless the unit to be carried is constructed so that all valves, fittings, and gauges are protected from damage during that carriage or operation and unless the following conditions are met:

* * * * *

(b) No person may smoke or crate an open flame and no certificate holder may allow any person to smoke or create an open flame within 10 feet of oxygen storage and dispensing equipment carried under paragraph (a) of this section or a portable oxygen concentrator carried and operated under paragraph (f) of this section.

* * * * *

(f) A passenger may carry and operate a portable oxygen concentrator for personal use and a certificate holder may allow a passenger to carry and operate a portable oxygen concentrator on board an aircraft operated under this part during all phases of flight if the portable oxygen concentrator satisfies all of the following requirements:

(1) Is legally marketed in the United States in accordance with Food and Drug Administration requirements in title 21 of the CFR;

(2) Meets the standards of RTCA DO–160G, Environmental Conditions and Test Procedures for Airborne Equipment, Section 21, Category M issued December 8, 2010;

(3) Generates a maximum oxygen pressure of less than 200 kPa gauge (29.0 psig/43.8 psia) at 20 °C (68 °F);

(4) Does not contain any hazardous materials subject to the Hazardous Materials Regulations (49 CFR parts 171–180) except as provided in 49 CFR 175.10; and

(5) Bears a label on the exterior of the device applied in a manner that ensures the label will remain affixed for the life of the device and containing the following certification statement in red lettering: ''The manufacturer of this portable oxygen concentrator has determined this device conforms to all applicable FAA requirements for portable oxygen concentrator carriage

and use on board aircraft.'' The label requirements in this paragraph do not apply to the following portable oxygen concentrators approved by the FAA for use on board aircraft prior to [DATE 90 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**]:

(i) AirSep Focus;
(ii) AirSep FreeStyle;
(iii) AirSep FreeStyle 5;
(iv) AirSep LifeStyle;
(v) Delphi RS–00400;
(vi) DeVilbiss Healthcare iGo;
(vii) Inogen One;
(viii) Inogen One G2;
(ix) Inogen One G3;
(x) Inova Labs LifeChoice;
(xi) Inova Labs LifeChoice Activox;
(xii) International Biophysics LifeChoice;
(xiii) Invacare Solo2;
(xiv) Invacare XPO2;
(xv) Oxlife Independence Oxygen Concentrator;
(xvi) Oxus RS–00400;
(xvii) Precision Medical EasyPulse;
(xviii) Respironics EverGo;
(xix) Respironics SimplyGo;
(xx) SeQual Eclipse;
(xxi) SeQual eQuinox Oxygen System (model 4000);
(xxii) SeQual Oxywell Oxygen System (model 4000);
(xxiii) SeQual SAROS; and
(xiv) VBox Trooper Oxygen Concentrator.

(g) *Incorporation by reference.* RTCA DO–160G, Environmental Conditions and Test Procedures for Airborne Equipment, Section 21, Category M issued December 8, 2010 is incorporated by reference into this section with the approval of the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Federal Aviation Administration must publish notice of change in the **Federal Register** and the material must be available to the public. Copies of this standard may be obtained from RTCA, Inc. 1150 18th Street NW., Suite 910, Washington, DC 20036; telephone (202) 833–9339; *www.rtca.org/store_list.asp.* This standard is available for inspection at the Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–9677. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 11. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 41706, 40113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722, 45101–45105.

Special Federal Aviation Regulation No. 106 [Removed]

■ 12. Remove Special Federal Aviation Regulation No. 106.

■ 13. Amend § 135.91 as follows:

■ A. Revise paragraph (a) introductory text;

■ B. In paragraph (a)(3) remove the reference ''title 49 CFR 173.300(a)'' and add in its place ''49 CFR 173.115(b)'';

■ C. Revise paragraph (b); and

■ D. Add paragraphs (f) and (g).

The revisions and additions read as follows:

§ 135.91 Oxygen and portable oxygen concentrators for medical use by passengers.

(a) Except as provided in paragraphs (d), (e) and (f) of this section, no certificate holder may allow the carriage or operation of equipment for the storage, generation or dispensing of medical oxygen unless the unit to be carried is constructed so that all valves, fittings, and gauges are protected from damage during that carriage or operation and unless the following conditions are met—

* * * * *

(b) No person may smoke or create an open flame and no certificate holder may allow any person to smoke or create an open flame within 10 feet of oxygen storage and dispensing equipment carried under paragraph (a) of this section or a portable oxygen concentrator carried and operated under paragraph (f) of this section.

* * * * *

(f) A passenger may carry and operate a portable oxygen concentrator for personal use and a certificate holder may allow a passenger to carry and operate a portable oxygen concentrator on board an aircraft operated under this part during all phases of flight if the portable oxygen concentrator satisfies all of the following requirements:

(1) Is legally marketed in the United States in accordance with Food and Drug Administration requirements in title 21 of the CFR;

(2) Meets the standards of RTCA DO–160G, Environmental Conditions and Test Procedures for Airborne Equipment, Section 21, Category M issued December 8, 2010;

(3) Generates a maximum oxygen pressure of less than 200 kPa gauge (29.0 psig/43.8 psia) at 20 °C (68 °F);

(4) Does not contain any hazardous materials subject to the Hazardous Materials Regulations (49 CFR parts 171–180) except as provided in 49 CFR 175.10; and

(5) Bears a label on the exterior of the device applied in a manner that ensures the label will remain affixed for the life of the device and containing the following certification statement in red lettering: ''The manufacturer of this portable oxygen concentrator has determined this device conforms to all applicable FAA requirements for portable oxygen concentrator carriage and use on board aircraft.'' The label requirements in this paragraph do not apply to the following portable oxygen concentrators approved by the FAA for use on board aircraft prior to [DATE 90 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**]:

(i) AirSep Focus;
(ii) AirSep FreeStyle;
(iii) AirSep FreeStyle 5;
(iv) AirSep LifeStyle;
(v) Delphi RS–00400;
(vi) DeVilbiss Healthcare iGo;
(vii) Inogen One;
(viii) Inogen One G2;
(ix) Inogen One G3;
(x) Inova Labs LifeChoice;
(xi) Inova Labs LifeChoice Activox;
(xii) International Biophysics LifeChoice;
(xiii) Invacare Solo2;
(xiv) Invacare XPO2;
(xv) Oxlife Independence Oxygen Concentrator;
(xvi) Oxus RS–00400;
(xvii) Precision Medical EasyPulse;
(xviii) Respironics EverGo;
(xix) Respironics SimplyGo;
(xx) SeQual Eclipse;
(xxi) SeQual eQuinox Oxygen System (model 4000);
(xxii) SeQual Oxywell Oxygen System (model 4000);
(xxiii) SeQual SAROS; and
(xxiv) VBox Trooper Oxygen Concentrator.

(g) *Incorporation by reference.* RTCA DO–160G, Environmental Conditions and Test Procedures for Airborne Equipment, Section 21, Category M issued December 8, 2010 is incorporated by reference into this section with the approval of the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Federal Aviation Administration must publish notice of change in the **Federal Register** and the material must be available to the

public. Copies of this standard may be obtained from RTCA, Inc. 1150 18th Street NW., Suite 910, Washington, DC 20036; telephone (202) 833–9339; *www.rtca.org/store_list.asp.* This standard is available for inspection at the Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–9677. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

■ 14. Amend § 135.144 as follows:

■ A. In paragraph (a) introductory text, remove ''of the following'';

■ B. In paragraph (b)(4) remove ''or'' following the semi-colon;

■ C. Redesignate paragraph (b)(5) as paragraph (b)(6);

■ D. Add new paragraph (b)(5); and

■ E. In paragraph (c) remove the reference ''(b)(5)'' and add in its place ''(b)(6)''.

The addition reads as follows:

§ 135.144 Portable electronic devices.

* * * * *

(b) * * *

(5) Portable oxygen concentrators that comply with the requirements in § 135.91 of this part; or

* * * * *

Issued under the authority provided by 49 U.S.C. 106(f) and 44701(a) in Washington, DC, on September 9, 2014.

John S. Duncan,

Director, Flight Standards Service.

[FR Doc. 2014–21964 Filed 9–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–111839–13]

RIN 1545–BL62

Transitional Amendments To Satisfy the Market Rate of Return Rules for Hybrid Retirement Plans

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations that would provide guidance regarding certain amendments to applicable defined benefit plans. Applicable defined benefit plans are defined benefit plans that use a lump sum-based benefit formula, including cash balance plans and pension equity plans, as well as other hybrid retirement plans that have a similar effect. These proposed regulations would permit an applicable defined benefit plan that does not comply with the requirement that the plan not provide for interest credits (or equivalent amounts) at an effective rate that is greater than a market rate of return to comply with that requirement by changing to an interest crediting rate that is permitted under the final hybrid plan regulations, without violating the anti-cutback rules of section 411(d)(6). These regulations would affect sponsors, administrators, participants, and beneficiaries of these plans. This document also provides a notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by December 18, 2014. Outlines of topics to be discussed at the public hearing scheduled for January 9, 2015, at 10 a.m. must be received by December 18, 2014.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–111839–13), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–111839–13), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically, via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–111839–13). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Neil S. Sandhu or Linda S. F. Marshall at (202) 317–6700; concerning submissions of comments, the hearing, and/or being placed on the building access list to attend the hearing, Oluwafunmilayo (Funmi) Taylor at (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

I. In General

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 411(b)(5) of the Internal Revenue Code (Code).

Generally, a defined benefit pension plan must satisfy the requirements of section 411 in order to be qualified under section 401(a) of the Code. Section 411(b)(5), which modifies the accrual requirements of section 411(b), was added to the Code by section 701(b) of the Pension Protection Act of 2006, Public Law 109–280 (120 Stat. 780 (2006)) (PPA '06). Section 411(b)(5) and certain related effective date provisions were subsequently amended by the Worker, Retiree, and Employer Recovery Act of 2008, Public Law 110–458 (122 Stat. 5092 (2008)) (WRERA '08).

Under section 411(b)(5)(B)(i), a statutory hybrid plan is treated as failing to satisfy the requirements of section 411(b)(1)(H) (which provides that the rate of an employee's benefit accrual must not be reduced because of the attainment of any age) if the terms of the plan provide any interest credit (or an equivalent amount) for any plan year at a rate that is in excess of a market rate of return. Section 411(b)(5)(B)(i) is generally effective for plan years beginning after December 31, 2007.

Section 411(d)(6) provides generally that a plan does not satisfy section 411 if an amendment to the plan decreases a participant's accrued benefit. For this purpose, a plan amendment that has the effect of eliminating or reducing an early retirement benefit or a retirement-type subsidy or eliminating an optional form of benefit with respect to benefits attributable to service before the amendment is treated as reducing accrued benefits.

Sections 204(b)(5)(B)(i) and 204(g) of the Employee Retirement Income Security Act of 1974, Public Law 93–406 (88 Stat. 829 (1974)), as amended (ERISA), contain rules that are parallel to sections 411(b)(5)(B)(i) and 411(d)(6), respectively. Under section 101 of Reorganization Plan No. 4 of 1978 (43 FR 47713), the Secretary of the Treasury has interpretive jurisdiction over the subject matter addressed in these proposed regulations for purposes of ERISA, as well as the Code. Thus, these proposed regulations would apply for purposes of sections 411(b)(5)(B)(i) and 411(d)(6) of the Code, as well as for purposes of sections 204(b)(5)(B)(i) and 204(g) of ERISA.

Section 1.411(d)–4, A–2(b)(1), of the Income Tax Regulations provides, in part, that the Commissioner may, consistent with the provisions of § 1.411(d)–4, provide for the elimination or reduction of section 411(d)(6) protected benefits that have already accrued to the extent that such elimination or reduction is necessary to permit compliance with other requirements of section 401(a). The Commissioner may exercise this authority only through the publication

of revenue rulings, notices, and other documents of general applicability.

Section 1.411(d)–4, A–2(b)(2)(i), provides that a plan may be amended to eliminate or reduce a section 411(d)(6) protected benefit, within the meaning of § 1.411(d)–4, A–1, if the following three requirements are met: the amendment constitutes timely compliance with a change in law affecting plan qualification; there is an exercise of section 7805(b) relief by the Commissioner; and the elimination or reduction of the section 411(d)(6) protected benefit is made only to the extent necessary to enable the plan to continue to satisfy the requirements for qualified plans.

Final regulations (TD 9505) (2010 final hybrid plan regulations) were published by the Treasury Department and the IRS in the **Federal Register** on October 19, 2010 (75 FR 64123). The 2010 final hybrid plan regulations provide for certain interest crediting rates that satisfy the requirements of section 411(b)(5)(B)(i). The 2010 final hybrid plan regulations provide, effective for plan years that begin on or after January 1, 2012, a list of interest crediting rates and combinations of rates that satisfy the requirement of section 411(b)(5)(B)(i) that the plan not provide an effective rate of return in excess of a market rate of return, while not permitting other rates. The provisions that provide for a list of rates are set forth at § 1.411(b)(5)–1(d)(1)(iii), (d)(1)(vi), and (d)(6)(i).

Proposed regulations (REG–132554–08) (2010 proposed hybrid plan regulations) were also published by the Treasury Department and the IRS in the **Federal Register** on October 19, 2010 (75 FR 64197). The 2010 proposed hybrid plan regulations provide for additional interest crediting rates that satisfy the requirements of section 411(b)(5)(B)(i). The preamble to the 2010 proposed hybrid plan regulations solicited comments with respect to guidance needed to permit a plan to change its interest crediting rate to comply with the final hybrid plan regulations.

II. Effective Dates

Notice 2011–85 (2011–44 IRB 605 (October 31, 2011)), (see § 601.601(d)(2)(ii)(*b*) of this chapter), announced delayed effective/applicability dates with respect to certain provisions in the hybrid plan regulations. Notice 2011–85 provided that the Treasury Department and the IRS intended to amend the hybrid plan regulations to postpone the effective/applicability date of § 1.411(b)(5)–1(d)(1)(iii), (d)(1)(vi), and (d)(6)(i), so that these provisions would be effective at a future date, not earlier than January 1, 2013.

Notice 2011–85 also provided that, when the 2010 proposed regulations were finalized, it was expected that relief from the requirements of section 411(d)(6) would be granted for certain plan amendments that eliminate or reduce a section 411(d)(6) protected benefit. A plan amendment would be eligible for this relief only if the plan amendment were adopted by the last day of the first plan year preceding the plan year for which the 2010 proposed regulations, once finalized, apply to the plan, and the elimination or reduction was made only to the extent necessary to enable the plan to meet the requirements of section 411(b)(5). In addition, Notice 2011–85 extended the deadline for amending cash balance and other applicable defined benefit plans, within the meaning of section 411(a)(13)(C), to meet the requirements of section 411(a)(13) (other than section 411(a)(13)(A)) and section 411(b)(5), relating to vesting and other special rules applicable to these plans. Under Notice 2011–85, the deadline for these amendments is the same as the deadline for an amendment that is eligible for the relief under section 411(d)(6) that is also announced in the notice.

Notice 2012–61 (2012–42 IRB 479 (October 15, 2012)), (see § 601.601(d)(2)(ii)(*b*) of this chapter), announced that the regulations described in Notice 2011–85 would not be effective for plan years beginning before January 1, 2014.

Final regulations (TD 9693) (2014 final hybrid plan regulations) that finalize the 2010 proposed hybrid plan regulations are being issued at the same time as these proposed regulations. The 2014 final hybrid plan regulations amend the effective/applicability date of § 1.411(b)(5)–1(d)(1)(iii), (d)(1)(vi), and (d)(6)(i), so that these provisions apply to plan years that begin on or after January 1, 2016.

III. Permissible Interest Crediting Rates

Interest crediting rates can be broadly characterized as either investment-based rates or rates that are not investment-based rates. An investment-based rate is a rate of return provided by actual investments, taking into account the return attributable to any change in the value of the underlying investments. A rate of return that is based on the rate of return for an index that measures the change in the value of investments can also be considered to be an investment-based rate. Rates that are not investment-based rates include fixed rates of interest and yields to maturity of bonds.

Sections 1.411(b)(5)–1(d)(3) and (d)(4) set forth permitted rates that are not investment-based rates, such as the third segment rate described in section 417(e)(3)(D) or 430(h)(2)(C)(iii), the yield on 30-year Treasury Constant Maturities, and a fixed 6 percent rate of interest. Section 1.411(b)(5)–1(d)(5) sets forth permitted investment-based rates, such as the rate of return on certain regulated investment companies (RICs), as defined in section 851, and the rate of return on plan assets. As provided in § 1.411(b)(5)–1(d)(6), certain annual (or more frequent) floors are permitted in combination with the bond-based rates and cumulative floors (in excess of the cumulative zero floor required under section 411(b)(5)(i)(II)) are permitted in combination with either the bond-based rates or the investment-based rates.

Explanation of Provisions

Prior to the first day of the first plan year that begins on or after January 1, 2016, a plan that uses an interest crediting rate that is not permitted under the final hybrid plan regulations must be amended to change to an interest crediting rate that is permitted under those regulations. Although a plan is permitted to be amended to change the interest crediting rate with respect to benefits that have not yet accrued, an amendment that reduces the interest crediting rate with respect to benefits that have already accrued would ordinarily be impermissible under section 411(d)(6).

In order to resolve this conflict between the market rate of return rules of section 411(b)(5)(B)(i) and the anti-cutback rules of section 411(d)(6), these proposed regulations would permit a plan with a noncompliant interest crediting rate to be amended with respect to benefits that have already accrued so that its interest crediting rate complies with the market rate of return rules. If the applicable requirements of these regulations are satisfied, such an amendment is permitted with respect to benefits that have already accrued, but only with respect to interest credits that are credited for interest crediting periods that begin on or after the later of the effective date of the amendment or the date the amendment is adopted (the applicable amendment date within the meaning of § 1.411(d)–3(g)(4)). To qualify for this treatment, the amendment would have to be adopted prior to and effective no later than the first day of the first plan year that begins on or after January 1, 2016.

These proposed regulations set forth amendments that would be eligible for

this treatment by providing a specific correction for each noncompliant feature of a noncompliant interest crediting rate.[1] If the noncompliant interest crediting rate has more than one noncompliant feature, then each noncompliant feature must be addressed separately in the prescribed manner. Examples are included to illustrate the application of these rules.

The general approach in the regulations is to permit amendments that bring the plan into compliance by changing the specific feature that causes the plan's interest crediting rate to be noncompliant, while not changing other features of the existing rate. For example, if a plan uses what would otherwise be a permissible bond-based rate but provides for an impermissible lookback month to determine interest credits, then the plan must be amended to correct the lookback month to a permitted lookback month while retaining the underlying bond-based rate. The Treasury Department and the IRS believe this general approach is the most appropriate manner to resolve the conflict between the market rate of return rules of section 411(b)(5)(B)(i) and the anti-cutback rules of section 411(d)(6).[2]

The proposed regulations take a special approach with respect to a noncompliant composite interest crediting rate that is determined as the greatest of two or more component rates, because it is not always readily apparent which specific feature or component rate causes the composite rate to be noncompliant. Two types of composite rates are specifically addressed in the proposed regulations, and a comment request is included to solicit suggestions for appropriate corrective amendments with respect to a third type of composite rate.

A composite rate that is the greater of an otherwise permissible variable bond-based rate and a fixed minimum rate in excess of an annual interest crediting rate of 6 percent (the maximum permitted fixed rate) could be viewed either as: (1) A noncompliant fixed rate that must be brought into compliance by reducing the fixed rate and eliminating the variable bond-based rate component, or (2) a noncompliant bond-based rate that must be brought into compliance by reducing the fixed minimum rate to the highest permitted fixed minimum interest crediting rate that is permitted with the particular variable bond-based rate (4 or 5 percent, as applicable). As a result, in that particular case, the proposed regulations would give the plan sponsor the choice of either: (1) Eliminating the variable rate while changing to an annual interest crediting rate of 6 percent or (2) retaining the variable rate while reducing the fixed minimum component to the extent necessary to bring the plan into compliance. These same options would apply if the fixed minimum interest crediting rate is greater than the highest permitted fixed minimum interest crediting rate that is permitted with the particular variable bond-based rate but is not greater than the highest permitted fixed rate (6 percent).

In the case of a composite rate that is the greatest of two or more otherwise permissible variable bond-based rates, it is also difficult to determine the most appropriate method to bring the plan into compliance. One reason for this difficulty is because, in most of these cases, the composite rate will not exceed the rate of interest on long-term investment grade corporate bonds. As a result, in such a case, the proposed regulations do not provide for the elimination of any of the variable bond-based components. Instead, the proposed regulations would provide that the noncompliant composite rate must be capped at a third segment rate.[3]

The proposed regulations also take a special approach with respect to a noncompliant interest crediting rate that is an impermissible investment-based rate. One example of an impermissible investment-based rate is an investment-based rate that is not equal to the rate of return on a RIC or the actual rate of return on the aggregate assets of a plan or a specified subset of plan assets (even if the rate of return is reasonably expected to be not significantly more volatile than the broad United States equities market or a similarly broad international equities market). Another example of an impermissible investment-based rate is the rate of return on a RIC that has most of its assets invested in securities of issuers (including other RICs) concentrated in an industry sector.

If an investment-based rate is noncompliant, the proposed regulations would require the plan sponsor to amend the plan to credit interest using a permitted investment-based rate with similar risk and return characteristics as the noncompliant rate, if possible. If it is not possible to select a permitted investment-based rate with similar risk and return characteristics as the noncompliant rate, then the proposed regulations would require the plan sponsor to amend the plan to credit interest using a permitted investment-based rate that is otherwise similar to the noncompliant rate (which would generally require the use of a rate that is less volatile than the noncompliant rate but is otherwise similar to the noncompliant rate).

Several commenters suggested that the IRS and the Treasury Department should permit a change from a noncompliant interest crediting rate to any of the maximum compliant interest crediting rates. However, this suggested approach was not taken in these proposed regulations because this approach would not require a sufficient connection between the correction and the specific feature that caused an interest crediting rate to be noncompliant, and would permit a plan sponsor to reduce the interest crediting rate more than is appropriate.

Proposed Effective/Applicability Dates

These regulations are proposed to apply to amendments adopted on or after the date regulations that finalize these proposed regulations are published in the **Federal Register**. In addition, it is proposed that taxpayers be permitted, pursuant to section 7805(b)(7), to elect to apply these regulations, as finalized, to plan amendments that are adopted during earlier periods.

Special Analyses

It has been determined that these proposed regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to

[1] A plan may have been amended to change its interest crediting rate under the rules of section 1107 of PPA '06. Section 1107 of PPA '06 provided relief from the requirements of section 411(d)(6) for amendments made pursuant to a change in law under PPA '06, if the amendment was adopted by the last day of the first plan year that began on or after January 1, 2009 (or 2011, in the case of a governmental plan as defined in section 414(d)). If an interest crediting rate adopted under the rules of section 1107 of PPA '06 is not permitted under the final hybrid plan regulations, then these proposed regulations would permit a subsequent amendment to change the rate to a rate permitted under the final hybrid plan regulations.

[2] The standard in these proposed regulations for resolving this conflict between section 411(d)(6) and section 411(b)(5)(B)(i) is generally comparable to the standard under the rules of § 1.411(d)–4, A–2(b)(1) and (b)(2)(i) with respect to the Commissioner's exercise of authority to resolve a conflict between section 411(d)(6) and another qualification requirement under section 401(a).

[3] Any of the rates that are denominated a third segment rate pursuant to § 1.411(d)(5)–1(d)(3) can be specified by a plan for this purpose, as well as for other purposes under these proposed regulations for which a third segment rate is used.

section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The Treasury Department and the IRS request comments on all aspects of the proposed rules.

In addition, comments are specifically requested as to the amendment required to bring a plan into compliance if the plan credits interest using a composite rate that is an investment-based rate of return with an impermissible annual (or more frequent) fixed or variable minimum rate. Some of these plans might currently be applying a reduction to the investment-based rate of return, in order to take into account the value provided by the minimum rate. For a plan that credits interest using an investment-based rate of return with an impermissible minimum rate:

- Should the required amendment eliminate the minimum rate (and eliminate any reduction to the investment-based rate of return), so that the required rate after amendment is the unreduced investment-based rate of return?
- Should the required amendment change the interest crediting rate to another permitted rate that is less volatile than the unreduced investment-based rate (such as a rate described in § 1.411(b)(5)–1(d)(3) with a fixed minimum rate of 4 percent per year)?
- Should the required amendment depend on the level of the minimum rate and the extent of any reduction to the investment-based rate of return?
- Should the plan sponsor have a choice among alternative required amendments to bring the plan into compliance?

Comments are also requested as to whether there are statutory hybrid plans other than those described in the specific request for comments that use a noncompliant interest crediting rate that is not addressed in the regulations and for which an amendment is necessary to bring the plan into compliance with the market rate of return rules. If so, comments are requested as to the appropriate amendment to bring the plan into compliance in such a case.

All comments will be available for public inspection and copying at *www.regulations.gov* or upon request. A public hearing has been scheduled for January 9, 2015, beginning at 10 a.m. in the Auditorium, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written or electronic comments by December 18, 2014 and submit an outline of topics to be discussed and the amount of time to be devoted to each topic (a signed original and eight (8) copies) by December 18, 2014.

A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of these regulations are Neil S. Sandhu and Linda S. F. Marshall, Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and the Treasury Department participated in the development of these regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.411(b)(5)–1 is amended by adding paragraph (e)(3)(vi) to read as follows:

§ 1.411(b)(5)–1 Reduction in rate of benefit accrual under a defined benefit plan.

* * * * *

(e) * * *

(3) * * *

(vi) *Transitional amendments needed to satisfy the market rate of return rules*—(A) *In general.* Notwithstanding the requirements of section 411(d)(6), if the requirements set forth in this paragraph (e)(3)(vi) are satisfied, a plan may be amended to change its interest crediting rate with respect to benefits that have already accrued in order to comply with the requirements of section 411(b)(5)(B)(i) and paragraph (d) of this section. A plan amendment is eligible for the treatment provided under this paragraph (e)(3)(vi)(A) to the extent that the amendment modifies an interest crediting rate that does not satisfy the requirements of section 411(b)(5)(B)(i) and paragraph (d) of this section in the manner specified in paragraph (e)(3)(vi)(C) of this section.

(B) *Rules of application*—(*1*) *Multiple noncompliant features.* If a plan's interest crediting rate has more than one noncompliant feature as described in paragraph (e)(3)(vi)(C) of this section, then each noncompliant feature must be addressed separately in the manner specified in paragraph (e)(3)(vi)(C) of this section.

(*2*) *Definition of investment-based rate.* The application of the rules of paragraph (e)(3)(vi)(C) of this section to an interest crediting rate depends on whether the interest crediting rate is an investment-based rate. For purposes of this paragraph (e)(3)(vi), an investment-based rate is either a rate of return provided by actual investments (taking into account the return attributable to any change in the value of the underlying investments) or a rate that is based on the rate of return for an index that measures the change in the value of investments.

(*3*) *Timing rules for permitted amendments.* The rules under this paragraph (e)(3)(vi) apply only to a plan amendment that is adopted prior to and effective no later than the first day of the first plan year described in paragraph (f)(2)(i)(B) of this section. In addition, the rules under this paragraph (e)(3)(vi) apply to a plan amendment only with respect to interest credits that are credited for interest crediting periods that begin after the applicable amendment date (within the meaning of § 1.411(d)–3(g)(4)).

(C) *Noncompliant feature and amendment to bring plan into compliance*—(*1*) *Timing rules not satisfied.* If a plan does not satisfy the timing rules relating to how interest credits are determined and credited (as

set forth in paragraph (d)(1)(iv) of this section), then the plan must be amended to correct the aspect of the plan's interest crediting rate that fails to comply with those rules with respect to its underlying interest crediting rate.

(*2*) *Fixed rate in excess of 6 percent.* If a plan credits interest using a fixed rate in excess of the rate described in paragraph (d)(4)(v) of this section, then the plan must be amended to reduce the interest crediting rate to an annual interest crediting rate of 6 percent.

(*3*) *Bond-based rate with margin exceeding maximum permitted margin.* If a plan credits interest using a rate that would be described in paragraph (d)(3) or (d)(4) of this section except that the plan applies a margin that exceeds the maximum permitted margin under paragraph (d)(3) or (d)(4) of this section, then the plan must be amended to reduce the margin to the maximum permitted margin for the underlying rate used by the plan.

(*4*) *Bond-based rate with fixed minimum rate exceeding maximum permitted fixed minimum rate.* If a plan credits interest using a variable rate described in paragraph (d)(3) or (d)(4) of this section in combination with a fixed minimum rate in excess of the highest permitted fixed minimum rate under paragraph (d)(6)(ii)(A)(*2*) or (B)(*2*) of this section (as applicable), then the plan must be amended either—

(*i*) To reduce the fixed minimum rate to the highest permitted fixed minimum rate that can be used in combination with the plan's variable rate; or

(*ii*) To credit interest using an annual interest crediting rate of 6 percent.

(*5*) *Greatest of two or more variable bond-based rates.* If a plan credits interest using a composite rate that is the greatest of two or more variable rates described in paragraph (d)(3) or (d)(4) of this section, then the plan must be amended to credit interest using the lesser of the composite rate and a rate described in paragraph (d)(3) of this section.

(*6*) *Impermissible bond-based rate.* If a plan credits interest using a variable rate that is not an investment-based rate of return and is not described in paragraph (d)(3) or (d)(4) of this section (after application of the rule of paragraph (e)(3)(vi)(C)(*3*) of this section, if applicable), then—

(*i*) If a variable rate described in paragraph (d)(3) or (d)(4) of this section that has similar duration and quality characteristics as the plan's variable rate can be selected, then the plan must be amended to credit interest based on such a rate; or

(*ii*) If a variable rate described in paragraph (d)(3) or (d)(4) of this section that has similar duration and quality characteristics as the plan's variable rate cannot be selected, then the plan must be amended to provide that the plan credits interest using the lesser of the plan's variable rate and a rate described in paragraph (d)(3) of this section.

(*7*) *Impermissible investment-based rate.* If a plan credits interest using an investment-based rate of return that is not described in paragraph (d)(5) of this section, then—

(*i*) If a permitted investment-based rate described in paragraph (d)(5)(ii)(A), (d)(5)(ii)(B), or (d)(5)(iv) of this section that has similar risk and return characteristics as the plan's impermissible investment-based rate can be selected, then the plan must be amended to credit interest based on such a permitted investment-based rate; or

(*ii*) If a permitted investment-based rate described in paragraph (d)(5)(ii)(A) (d)(5)(ii)(B), or (d)(5)(iv) of this section that has similar risk and return characteristics as the plan's impermissible investment-based rate cannot be selected, then the plan must be amended to credit interest based on a rate of return described in paragraph (d)(5)(ii)(A), (d)(5)(ii)(B), or (d)(5)(iv) of this section that is otherwise similar to the plan's impermissible investment-based rate (generally requiring the use of a rate that is less volatile than the plan's impermissible investment-based rate but is otherwise similar to that rate).

(D) *Examples.* The following examples illustrate the application of the rules of this paragraph (e)(3)(vi). Each plan has a plan year that is the calendar year, and all amendments are adopted on October 1, 2015 and become effective for interest crediting periods beginning on or after January 1, 2016.

Example 1. (i) *Facts.* A plan determines interest credits for a plan year using the average yield on 30-year Treasury Constant Maturities for the last week of the preceding plan year (which is an impermissible period for this purpose pursuant to paragraph (d)(1)(iv)(B) of this section because it is not a month).

(ii) *Conclusion.* Pursuant to paragraph (e)(3)(vi)(C)(*1*) of this section, the plan must be amended to determine interest credits for a plan year using the average yield on 30-year Treasury Constant Maturities for a period that complies with the requirements of paragraph (d)(1)(iv)(B) of this section.

Example 2. (i) *Facts.* The facts are the same as in *Example 1,* except that the plan's interest crediting rate is determined as the average yield on 30-year Treasury Constant Maturities for the period, plus 50 basis points.

(ii) *Conclusion.* Pursuant to paragraph (e)(3)(vi)(B)(*1*) of this section, the plan must be amended to correct both the impermissible lookback period and the excess margin. Accordingly, pursuant to paragraph (e)(3)(vi)(C)(*1*) and (*3*) of this section, the plan must be amended to determine interest credits for a plan year using the average yield on 30-year Treasury Constant Maturities (with no margin) for a period that complies with the requirements of paragraph (d)(1)(iv)(B) of this section.

Example 3. (i) *Facts.* A plan credits interest for a plan year using the rate of return on plan assets for the preceding plan year.

(ii) *Conclusion.* Pursuant to paragraph (e)(3)(vi)(C)(*1*) of this section, the plan must be amended to determine interest credits for each plan year using the rate of return on plan assets for that plan year.

Example 4. (i) *Facts.* A plan credits interest using the average yield on 30-year Treasury Constant Maturities for December of the preceding plan year with a minimum rate of 5.5 percent per year.

(ii) *Conclusion.* Pursuant to paragraph (e)(3)(vi)(C)(*4*) of this section, the plan must be amended to change the plan's interest crediting rate. The new interest crediting rate under the plan must be either the average yield on 30-year Treasury Constant Maturities for December of the preceding plan year with a minimum rate of 5 percent per year or an annual interest crediting rate of 6 percent.

Example 5. (i) *Facts.* A plan credits interest using the greater of the unadjusted yield on 30-year Treasury Constant Maturities and the yield on 1-year Treasury Constant Maturities plus 100 basis points.

(ii) *Conclusion.* Pursuant to paragraph (e)(3)(vi)(C)(*5*) of this section, the plan must be amended to credit interest using the lesser of a third segment rate described in paragraph (d)(3) of this section and the composite rate used under the plan before the amendment (the greater of the unadjusted yield on 30-year Treasury Constant Maturities and the yield on 1-year Treasury Constant Maturities plus 100 basis points).

Example 6. (i) *Facts.* A plan credits interest using a broad-based index that measures the yield to maturity on a group of long-term investment grade corporate bonds.

(ii) *Conclusion.* Pursuant to paragraph (e)(3)(vi)(C)(*6*)(*i*) of this section, the plan must be amended to credit interest using a third segment rate described in paragraph (d)(3) of this section.

Example 7. (i) *Facts.* A plan credits interest using the rate of return for a broad-based index that measures the yield to maturity on a group of short-term non-investment grade corporate bonds.

(ii) *Conclusion.* Pursuant to paragraph (e)(3)(vi)(C)(*6*)(*ii*) of this section, the plan must be amended to credit interest at the lesser of the rate of return for the index used under the plan before the amendment date and a third segment rate described in paragraph (d)(3) of this section.

Example 8. (i) *Facts.* A plan credits interest using the rate of return for the S&P 500 index. To bring the plan into compliance with the market rate of return rules, the plan sponsor amends the plan to credit interest based on the rate of return on a RIC that is designed to track the rate of return on the S&P 500 index.

(ii) *Conclusion.* The amendment satisfies the rule of paragraph (e)(3)(vi)(C)(*7*)(*i*) of this section.

Example 9. (i) *Facts.* A plan credits interest based on the rate of return on a collective trust that holds a balanced portfolio of equity and fixed income investments, which provides a rate of return that is reasonably expected to be not significantly more volatile than the broad U.S. equities market or a similarly broad international equities market. To bring the plan into compliance with the market rate of return rules, the plan sponsor amends the plan to credit interest based on the actual rate of return on the assets within a specified subset of the plan's assets that is invested in the collective trust.

(ii) *Conclusion.* The amendment satisfies the rule of paragraph (e)(3)(vi)(C)(*7*)(*i*) of this section.

* * * * *

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2014–22292 Filed 9–18–14; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–105739–11]

RIN 1545–BK08

Removal of Allocation Rule for Disbursements From Designated Roth Accounts to Multiple Destinations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the regulations that address the tax treatment of distributions from designated Roth accounts under tax-favored retirement plans. The proposed regulations would limit the applicability of the rule regarding the allocation of after-tax amounts when disbursements are made to multiple destinations so the allocation rule applies only to distributions made before the earlier of January 1, 2015 or a date chosen by the taxpayer that is on or after September 18, 2014. These regulations would affect administrators of, employers maintaining, participants in, and beneficiaries of designated Roth accounts under tax-favored retirement plans.

DATES: Written or electronic comments and requests for a public hearing must be received by December 18, 2014.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–105739–11), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washingtonm, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–105739–11), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–105739–11).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Michael P. Brewer at (202) 317–6700; concerning submission of comments or to requests for a public hearing, Oluwafunmilayo (Funmi) Taylor at (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Section 402(a) provides generally that any amount distributed from a trust described in section 401(a) that is exempt from tax under section 501(a) is taxable to the distributee under section 72 in the taxable year of the distributee in which distributed. Under section 403(b)(1), any amount distributed from a section 403(b) plan is also taxable to the distributee under section 72.

If a participant's account balance in a plan qualified under section 401(a) or in a section 403(b) plan includes both after-tax and pretax amounts, then, under section 72(e)(8), each distribution (other than a distribution that is paid as part of an annuity) from the plan will include a pro rata share of both after-tax and pretax amounts. (Under section 72(d), a different allocation method applies to annuity distributions.)

Under section 402A(d)(4), section 72 is applied separately with respect to distributions and payments from a designated Roth account and other distributions and payments from the plan.

Section 402(c) prescribes rules for amounts that are rolled over from qualified trusts to eligible retirement plans, including individual retirement accounts or annuities (''IRAs''). Subject to certain exceptions, section 402(c)(1) provides that if any portion of an eligible rollover distribution paid to an employee from a qualified trust is transferred to an eligible retirement plan, the portion of the distribution so transferred is not includible in gross income in the taxable year in which paid.

Under section 402(c)(2), the maximum portion of an eligible rollover distribution that may be rolled over in a transfer to which section 402(c)(1) applies generally cannot exceed the portion of the distribution that is otherwise includible in gross income. However, under section 402(c)(2)(A) and (B), the general rule does not apply to such a distribution to the extent that such portion is transferred in a direct trustee-to-trustee transfer to a qualified trust or to an annuity contract described in section 403(b) and such trust or contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible, or such portion is transferred to an IRA.

In addition, section 402(c)(2) that, in the case of a transfer described in subparagraph (A) or (B), the amount transferred shall be treated as consisting first of the portion of such distribution that is includible in gross income (determined without regard to section 402(c)(1)).

Under section 402A, an applicable retirement plan may include a designated Roth account. An applicable retirement plan is defined in section 402A(e)(1) to mean a plan qualified under section 401(a), a section 403(b) plan, and a governmental section 457(b) plan. Section 402A(d) provides that a qualified distribution (as defined in section 402A(d)(2)) from a designated Roth account is not includible in gross income.

Section 1.402A–1, Q&A–5(a), of the Income Tax Regulations prescribes taxability rules for a distribution from a designated Roth account that is rolled over. Q&A–5(a) provides, in part, that ''any amount paid in a direct rollover is treated as a separate distribution from any amount paid directly to the employee.''

Section 402(f) requires that the plan administrator of a plan qualified under section 401(a) provide any recipient of an eligible rollover distribution with a written explanation describing certain provisions of law. Notice 2009–68, 2009–2 CB 423 (September 28, 2009), contains two safe harbor explanations that may be provided to recipients of eligible rollover distributions from an employer plan in order to satisfy section 402(f). The safe harbor explanation with respect to distributions that are not from a designated Roth account provides in part (under the heading ''If your payment includes after-tax contributions'') that ''[i]f you do a direct rollover of only a portion of the amount paid from the Plan and a portion is paid to you, each of the payments will include an allocable portion of the after-tax contributions.'' Similarly, for distributions from a designated Roth

account, the safe harbor explanation provides in part (under the heading ''How Do I Do a Rollover?'') that ''[i]f you do a direct rollover of only a portion of the amount paid from the Plan and a portion is paid to you, each of the payments will include an allocable portion of the earnings in your designated Roth account.''

Sections 403(b)(8)(B) and 457(e)(16)(B) provide that the rules of section 402(c)(2) through (7), (9), and (11) and the rules of section 402(f) also apply to section 403(b) plans and governmental section 457(b) plans.

In response to Notice 2009–68, comments were received requesting changes to the rules regarding the allocation of basis among simultaneous disbursements to multiple destinations from a retirement plan that contains both after-tax and pretax amounts. Commenters indicated that some plan providers were treating disbursements to separate destinations not as separate distributions but rather as a single distribution of the aggregate disbursement amounts. These plan providers permitted allocation of all the after-tax amounts included in the disbursements to a Roth IRA. The commenters also pointed out that, even under the allocation method described in Notice 2009–68, a participant who wishes to disburse after-tax amounts to one destination and pretax amounts to another could accomplish this result in a series of steps. First, the participant could take an eligible rollover distribution as a single cash distribution. Second, by taking advantage of the rule in section 402(c)(2) that distribution amounts that are rolled over are treated as consisting first of pretax amounts, the participant could roll over the pretax amounts included in the distribution to one destination, such as a traditional IRA. The remaining amount of the distribution would be after-tax, which the participant could either roll over into a Roth IRA or retain without incurring any tax liability. The option to roll over all after-tax amounts into a Roth IRA, however, would be available only to taxpayers with sufficient funds available outside of the plan to be able to roll over the entire amount distributed, including an amount equal to the 20 percent of the taxable portion of the distribution that is required to be paid to the IRS as withholding pursuant to § 3405(c).

These proposed regulations are being issued in conjunction with Notice 2014–54 (to be published in IRB 2014–41 (October 6, 2014)), which will permit a taxpayer to direct after-tax and pretax amounts that are simultaneously disbursed to multiple destinations so as to allocate them to specific destinations. Taxpayers will be able to direct these allocations in connection with disbursements that are directly rolled over, not only in connection with 60-day rollovers after receiving a distribution.

Explanation of Provisions

The proposed regulations would limit the applicability of the existing requirement in § 1.402A–1, Q&A–5(a), that ''any amount paid in a direct rollover is treated as a separate distribution from any amount paid directly to the employee.'' Under the proposed regulations, that separate distribution requirement would not apply to distributions made on or after January 1, 2015, or an earlier date chosen by the taxpayer. An earlier date chosen by the taxpayer for this purpose may not be earlier than September 18, 2014. See the ''Proposed Effective Date'' section of this preamble for a description of the rules that will apply after the separate distribution rule of § 1.402A–1, Q&A–5(a), no longer applies to distributions.

Proposed Effective Date

These regulations are proposed to apply to distributions from designated Roth accounts made on or after January 1, 2015. For distributions from designated Roth accounts made on or after the applicability date of the Treasury decision that finalizes these proposed regulations (but no earlier than January 1, 2015), the rules in section III of Notice 2014–54 will apply.

For distributions that are made on or after September 18, 2014 and before the applicability date of the Treasury decision that finalizes these proposed regulations, taxpayers may rely on these proposed regulations. Taxpayers relying on these proposed regulations should apply a reasonable interpretation of the last sentence of section 402(c)(2) to allocate after-tax and pretax amounts among disbursements made to multiple destinations. For this purpose, a reasonable interpretation of the last sentence of section 402(c)(2) includes the rules issued by the IRS in section III of Notice 2014–54.

Statement of Availability of IRS Documents

The IRS notices cited in this preamble are published in the Internal Revenue Bulletin or Cumulative Bulletin and are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or by visiting the IRS Web site at *http://www.irs.gov.*

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The Treasury Department and the IRS specifically request comments on the clarity of the proposed regulations and how they may be made easier to understand.

All comments will be available for public inspection and copying at *www.regulations.gov* or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Michael P. Brewer, IRS Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and the Department of Treasury participated in the development of the proposed regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.402A–1 is amended by adding a sentence after the third sentence of paragraph A–5. (a) to read as follows:

§ 1.402A–1 Designated Roth Accounts.

* * * * *

A–5. (a) * * * The preceding sentence does not apply to distributions made on or after January 1, 2015; in addition, a taxpayer may elect not to apply the preceding sentence to distributions made on or after an earlier date that is no earlier than September 18, 2014. * * *

* * * * *

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2014–22324 Filed 9–18–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[Docket ID: DOD–2012–HA–0049]

RIN 0720–AB57

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)/ TRICARE: TRICARE Pharmacy Benefits Program

AGENCY: Office of the Secretary, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement new authority authorizing an over-the-counter (OTC) drug program, make several administrative changes to the TRICARE Pharmacy Benefits Program regulation in order to conform it more closely to the statute, and clarify some procedures regarding the operation of the uniform formulary. Specifically, the proposed rule would: provide implementing regulations for the OTC drug program that has recently been given permanent statutory authority; conform the pharmacy program regulation to the statute regarding point-of-service availability of non-formulary drugs and copayments for all categories of drugs; clarify the process for formulary placement of newly approved drugs; and clarify several other uniform formulary practices.

DATES: Written comments received at the address indicated below by November 18, 2014 will be considered and addressed in the final rule.

ADDRESSES: You may submit comments, identified by docket number and/or RIN number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Dr. George E. Jones, Jr., Chief, Pharmacy Operations Division, Defense Health Agency, telephone 703–681–2890.

SUPPLEMENTARY INFORMATION:

A. Executive Summary

1. Purpose of the Proposed Rule

The purpose of this proposed rule is to incorporate new statutory authority for a permanent OTC program, make several administrative changes to the TRICARE Pharmacy Benefits Program regulation to conform more closely to the statute (10 U.S.C. 1074g), and clarify some procedures regarding the uniform formulary.

The legal authority for this proposed rule is 10 U.S.C. 1074g.

2. Summary of the Major Provisions of the Proposed Rule

a. It would establish the process for identifying select OTC products for coverage under the pharmacy benefit program and the rules for making these products available to eligible DoD beneficiaries under the new authority enacted in section 702 of the National Defense Authorization Act for Fiscal Year 2013 (NDAA–13). In general, approved OTC pharmaceuticals will comply with the mandatory generic policy as stated in CFR 199.21(j)(2) and will be available under terms similar to generic prescription medications, except that the need for a prescription and/or a copay may be waived in some circumstances.

b. It would conform the regulation to the statute regarding the number of points of service where non-formulary drugs are required to be available. They would be generally available in the retail program and the mail order program unless the Pharmacy and Therapeutics Committee recommends limiting the drug to a single point of service—retail or mail order—based on determinations that there is no significant clinical need and there is a significant additional government cost for access in both, and the recommendation is approved by the Director, Defense Health Agency (DHA).

c. It would clarify the process for formulary placement of newly approved innovator drugs brought to market under a New Drug Application approved by the Food and Drug Administration (FDA), giving the Pharmacy and Therapeutics Committee up to 120 days to recommend tier placement on the uniform formulary. During this period, new drugs would be assigned a classification pending status; they would be available in retail and mail order under terms comparable to non-formulary drugs.

d. As a ''housekeeping'' change, it would conform the rule to the new statutory specifications for copayment amounts under section 712 of NDAA–13.

3. Costs and Benefits

The benefits of the proposed rule are that it will more closely conform the regulation to the statute and facilitate more effective administration of the TRICARE Pharmacy Benefits Program. The proposed rule will provide savings to the Department of a low-end estimate of $18.4 million and the high-end estimate of $26 million per year.

B. Background

In 1999, Congress enacted 10 U.S.C. 1074g to, among other things, establish a uniform formulary program to incentivize the use of more cost-effective pharmaceutical agents and points of service. There are four points of service under the Pharmacy Benefits Program—military facility pharmacies, retail network pharmacies, retail non-network pharmacies, and the TRICARE mail order pharmacy program (TMOP)—and three uniform formulary tiers—First Tier for generic drugs, Second Tier for preferred brand name drugs (also referred to as ''formulary drugs''), and Third Tier for non-preferred brand name drugs (also referred to as ''non-formulary drugs''). In addition to establishing procedures for assigning drugs to one of the three tiers, the statute includes several other

specifications, such as: That formulary drugs are generally available in all three points of service; and that non-formulary drugs are available in at least one point of service. TRICARE's regulations implementing this statute, issued in 2004, established or continued prior rules for, among other things: Assigning drugs to a formulary tier based on clinical and cost-effectiveness, and point of service availability for the respective tiers. Although the statute required Third Tier drugs to be available in only one point of service, the regulations made them available in two.

TRICARE's administration of the Pharmacy Benefits Program has achieved some improvements in cost-effectiveness through the retail refund program, increased utilization of formulary management tools such as step-therapy and prior authorizations, and increased copays. The proposed rule will provide savings to the Department of a low-end estimate of $18.4 million and the high-end estimate of $26 million per year based on a combination of the savings from the current OTC demonstration program and estimated potential savings resulting from being able to offer non-formulary drugs through the most cost-effective venue. However, overall costs of the TRICARE Pharmacy Benefits Program have continued to increase substantially, from approximately $2 billion in fiscal year 2001, to approximately $7 billion for fiscal year 2012. Like other large health plans, DoD is experiencing rising pharmacy costs due to new expensive products, shorter hospital stays, and in some cases higher drug prices. DoD also has an expanded beneficiary population, which now includes ''TRICARE-for-Life'' beneficiaries and some members of the Selected Reserves and their families. Retail prescription co-payments reflect the cost for up to a 30-day supply of the prescription, while mail order co-payments cover up to a 90-day supply. This difference is part of the incentive for beneficiaries to use the more cost-effective mail order program, as is the recent elimination of copayments for mail order generic drugs. Encouraging increased use of DoD's more cost-effective points of service (i.e., the mail order pharmacy or a military treatment facility pharmacy) and more cost-effective pharmaceutical products (i.e., those on First Tier and Second Tier) continues to be a TRICARE program objective.

C. Provisions of the Proposed Rule

The proposed rule would establish the process for selecting OTC products for coverage under the TRICARE pharmacy benefit program and would provide the guidelines for making selected OTC products available to eligible DoD beneficiaries. The OTC drugs demonstration project began through the TRICARE Mail Order Pharmacy program in May 2007 and in the TRICARE Retail Pharmacy program in October 2007. Due to the brevity of the demonstration, particularly in the retail pharmacy venue, in June 2009 an interim report to Congress was submitted with preliminary cost savings estimates and positive beneficiary feedback. In order to validate the initial results and identify areas for improvement to the program, the Department of Defense (DoD) extended the program through a **Federal Register** notice published on December 16, 2009. The demonstration program was due to terminate November 4, 2012. The DoD extended the OTC demonstration for another 2 years through publishing a **Federal Register** notice, while awaiting permanent legislative authority. A report to Congress in 2012 stated that DoD saved approximately $62M during the course of the OTC demo. Section 702 of NDAA–13 amended subsection (a)(2) of section 1074g of title 10, United States Code, providing permanent authority to place selected over-the-counter drugs on the uniform formulary.

The new legislation authorizes DoD to place selected OTC drugs on the uniform formulary and make such drugs available to eligible covered beneficiaries (eligibility specified in 32 CFR 199.3). The basic criteria regarding selection of OTC products for consideration is cost-effectiveness and patient access. DoD will consider and approve an OTC drug for inclusion under this proposal only if it is expected to reduce government costs relative to a clinically comparable alternative drug that would otherwise be consumed and/or if an OTC product provided access to care not otherwise met by prescription-only products (e.g., Plan B contraceptive). An OTC drug may be included on the uniform formulary only if the Pharmacy and Therapeutics (P&T) Committee finds that the OTC drug is both cost effective and clinically effective. Clinical effectiveness is judged by the criteria found in 32 CFR 199.21(e)(1)(i–ii) while cost effectiveness is determined based on criteria found in 32 C.F.R. 199.21(e)(2). This cost-effectiveness standard is reinforced by the requirement for physician supervision through issuance of a prescription for the OTC drug. This requirement applies unless it is waived based on a recommendation of the Pharmacy and Therapeutics Committee for the use of the drug for certain medical situations, such as emergency care treatment.

The selected OTC drugs would be placed in First Tier with the corresponding copays applicable to the point-of-service involved (i.e., $0.00 in military facilities and mail order, $5.00 in the retail network). Alternatively, based on the recommendation of the Pharmacy and Therapeutics Committee and approval of the Director, DHA, the retail copay may be waived and a $0.00 copay established for the particular OTC drug in all points of service. No cost sharing is required at any of the three points of service for a uniformed service member on active duty.

Another purpose of this proposed rule is to make several administrative changes to the TRICARE Pharmacy Benefits Program regulation to conform more closely to the statute (10 U.S.C. 1074g) and to clarify some procedures regarding the uniform formulary. One change is to align the regulation with the statute regarding the number of points of service where non-formulary drugs are required to be available. The statute requires availability in one of the three primary points of service (military facility, retail network, and mail order program); the current regulation specifies that non-formulary (Third Tier) drugs are generally unavailable in military facilities and generally available in the retail network and by mail order. The proposed rule, by contrast, states that non-formulary drugs are generally required to be available in the retail program and the mail order program. This requirement applies unless the Pharmacy and Therapeutics Committee recommends limiting the drug to only one venue based on determinations that there is no significant clinical need and there is a significant additional government cost for access at all venues, and the recommendation is approved by the Director, Defense Health Agency (DHA).

In this context, clinical need means there are reasons in the course of clinical care that the non-formulary drug is required over other, preferred, formulary drugs. A finding of clinical need also means that limiting access to one point of service would affect the ability to deliver prompt, appropriate medical care, for example timing of therapy or use of the drug for acute care indications, among other concerns. This change would reinforce DoD policy, which encourages use of more cost-effective drugs and points of service. A beneficiary always has the option of asking the health care provider to change the prescription to a comparable formulary drug, or, in cases of medical

necessity, obtaining approval for dispensing the non-formulary drug at the formulary copayment amount. Like all other health plans with formularies, physicians make professional decisions regarding formulary alternatives, often in consultation with the pharmacist in light of the individual patient's circumstances. Under DOD's policy, when a physician provides written justification stating why the non-preferred drug is expected to have better clinical outcomes than the preferred drug, the non-formulary drug may be obtained at the formulary copay. This process is clearly explained to the provider by the Pharmacy Benefit manager through telephone or fax when the situation occurs. Another option for most prescriptions when the beneficiary prefers a non-formulary drug is to have the prescription transferred to the mail order program, which has lower co-payments for non-formulary drugs than the retail point of service.

Another administrative change would clarify the process for formulary placement of innovator drugs newly approved by the Food and Drug Administration. Current practice for brand name drugs is that they are placed in the Second Tier the day FDA approves the drug. This practice has not led to the most cost-effective placement of these newly approved drugs and has the potential for confusion among patients and physicians if the drug is soon thereafter moved to Third Tier. DoD proposes that newly approved drugs be evaluated for their relative clinical benefit and relative cost, as compared to other drugs in the same class, at the next quarterly meeting of the Pharmacy and Therapeutics (P&T) Committee following FDA approval. A recommendation will then be made to the Director of the TRICARE Management Activity for tier placement of the drug.

The current regulation does not specifically address the status of the drug from the date of FDA approval to the date the P&T Committee's recommendation is eventually implemented. The proposed rule would address this by considering the newly approved drug to be in a classification pending status and covered by TRICARE under terms applicable to Third Tier drugs, and by providing a period of up to 120 days for the P&T Committee to make a final determination with respect to formulary classification. Tier classification will normally occur at the next quarterly meeting following FDA approval, but in cases when the FDA approval happens too close to a scheduled meeting for the necessary research to be done, the drug would be considered at the following meeting. The 120-day time period accommodates this. During the period prior to a decision on tier placement, the newly approved drug will be covered by TRICARE under Third Tier terms.

Under the current rule, new drugs are immediately placed on the Second Tier (formulary brand-name drugs). Once the new drug is properly reviewed and compared to all other drugs in its class, it is often moved to the Third Tier (non-formulary), i.e., no clinical or cost advantage. Under the proposed rule, very briefly deferring tier placement pending a review would not require a ''tier move'' if the review finds no clinical or cost advantage. Movement of drugs between the tiers is always confusing to beneficiaries even though they are notified in writing of the change. The proposed change to the rule will lessen the likelihood of a tier move for the new product.

The proposed rule would also incorporate into the regulation several details of current practice. While the current regulation provides that a uniform formulary drug that is not a generic drug may be grouped for copayment purposes with generic drugs if it is judged to be as cost effective as generic drugs in the same drug class, the proposed rule would add that a generic drug may be classified as non-formulary if it is less cost-effective than non-generic formulary drugs in the same drug class. The Uniform Formulary process requires the P&T committee to make recommendations to the Director, Defense Health Agency who approves or disapproves each recommendation after reviewing comments from the Beneficiary Advisory Panel on the recommendations. In the case of all generic drugs, the beneficiary copayment amount for any prescription may not exceed the total charge to TRICARE for that prescription.

Finally, the proposed rule would make a ''housekeeping'' change to the paragraph on cost sharing amounts to make it conform to the current statutory specifications established by NDAA–13. In the current regulation, copays were calculated based on the previous statute that stated that the Third Tier copay could be no more than 20% for active duty dependents or 25% for retirees and their dependents of the cost of the drug. The NDAA–13 legislation provided specific set dollar amounts for copays from January 2014 through January 2023. This has rendered the text of the current regulation out of date and no longer accurate. The new proposed text of the regulation matches the current statutory specifications. The proposed rule also reissues without change paragraphs (h)(4) and (i)(2)(ii)(D) to clarify agency intent and correct a technical misstatement in a 2011 **Federal Register** publication.

D. Regulatory Procedures

Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

Executive Order (EO) 12866 and 13563 require that a comprehensive regulatory impact analysis be performed on any economically significant regulatory action, defined primarily as one that would result in an effect of $100 million or more in any one year. The DoD has examined the economic, legal, and policy implications of this proposed rule and has concluded that it is not an economically significant regulatory action under Section 3(f)(1) of the EO. The rule is a significant regulatory action and it has been reviewed by the Office of Management and Budget.

Congressional Review Act, 5 U.S.C. § 801, et seq.

Under the Congressional Review Act, a major rule may not take effect until at least 60 days after submission to Congress of a report regarding the rule. A major rule is one that would have an annual effect on the economy of $100 million or more or have certain other impacts. This proposed rule is a not a major rule under the Congressional Review Act.

Sec. 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

This rule does not contain a Federal mandate that may result in the expenditure by State, local and tribunal governments, in aggregate, or by the private sector, of $100 million or more (adjusted for inflation) in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities. This proposed rule does not have a significant impact on a substantial number of small entities.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

This proposed rule contains no new information collection requirements subject to the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3511).

Executive Order 13132, ''Federalism''

This proposed rule does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on the States; the relationship between the National Government and the States; or the distribution of power and responsibilities among the various levels of Government.

Public Comments Invited

This is a proposed rule. DoD invites public comments on all of its provisions.

List of Subjects in 32 CFR Part 199

Claims, Health care, Health insurance, Military personnel, Pharmacy Benefits.

Accordingly, 32 CFR part 199 is proposed to be amended as follows:

PART 199—[AMENDED]

■ 1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

■ 2. Section 199.21 is amended by:
■ a. Adding new paragraphs (b)(3) and (g)(5), (h)(5), (i)(2)(xii) and (j)(4) and (5),
■ b. Revising paragraphs (h)(3)(i) and (ii), (i)(2)(ii) through (v), and (i)(2)(x), and
■ c. Republishing paragraph (h)(4) without change.

The additions and revisions read as follows:

§ 199.21. Pharmacy Benefits Program.

* * * * *

(b)* * *

(3) *Over-the-counter drug.* A drug that is not subject to section 503(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)(1)).

* * * * *

(g) * * *

(5) *Administrative procedure for newly approved drugs.* In the case of a newly approved innovator drug, other than a generic drug, the innovator drug will, not later than 120 days after the date of approval by the Food and Drug Administration, be added to the uniform formulary unless prior to that date the P&T Committee has recommended that the agent be listed as a non-formulary drug. If the Director, DHA subsequently approves that recommendation, the drug will be so listed. If the Director, DHA disapproves the recommendation to list the drug as non-formulary Third Tier, the drug will be then classified per the Director's decision. If, prior to the expiration of 120 days, the P&T Committee recommends that the agent be added to the uniform formulary and the recommendation is approved by the Director, DHA, that will be done as soon as feasible. Pending action under this paragraph (5), the newly approved pharmaceutical agent will be considered to be in a classification pending status and will be available to beneficiaries under Third Tier terms applicable to all other non-formulary agents.

* * * * *

(h) * * *

(3) *Availability of non-formulary pharmaceutical agents.*—(i) *General.* Non-formulary pharmaceutical agents are generally not available in military treatment facilities. They are generally available in the retail program and the mail order program unless the Pharmacy and Therapeutics Committee recommends limiting a particular non-formulary drug to only one of these points of service based on determinations that there is no significant clinical need and there is a significant additional government cost for access in both, and the recommendation is approved by the Director, DHA. Clinical need is judged by the criteria found in paragraph (e)(1)(i–ii) of this section. Cost effectiveness is determined based on criteria found in paragraph (e)(2) of this section.

(ii) *Availability of non-formulary pharmaceutical agents at military treatment facilities.* Even when particular non-formulary agents are not generally available at military treatment facilities, they will be made available to eligible covered beneficiaries through the non-formulary special approval process as noted in paragraph (h)(3)(ii) of this section when there is a valid medical necessity for use of the non-formulary pharmaceutical agent.

* * * * *

(4) *Availability of vaccines/immunizations.* A retail network pharmacy may be an authorized provider under the Pharmacy Benefits Program when functioning within the scope of its state laws to provide authorized vaccines/immunizations to an eligible beneficiary. The Pharmacy Benefits Program will cover the vaccine and its administration by the retail network pharmacy, including administration by pharmacists who meet the applicable requirements of state law to administer the vaccine. A TRICARE authorized vaccine/immunization includes only vaccines/immunizations authorized as preventive care under the basic program benefits of § 199.4 of this part, as well as such care authorized for Prime enrollees under the uniform HMO benefit of § 199.18. For Prime enrollees under the uniform HMO benefit, a referral is not required under paragraph (n)(2) of § 199.18 for preventive care vaccines/immunizations received from a retail network pharmacy that is a TRICARE authorized provider. Any additional policies, instructions, procedures, and guidelines appropriate for implementation of this benefit may be issued by the TMA Director.

(5) *Availability of selected over-the-counter (OTC) drugs under the pharmacy benefits program.* Although the pharmacy benefits program generally covers only prescription drugs, in some cases over-the-counter drugs may be covered and may be placed on the uniform formulary.

(i) An OTC drug may be included on the uniform formulary upon the recommendation of the Pharmacy and Therapeutics Committee and approval of the Director, DHA, based on a finding that it is cost-effective and clinically effective, as compared with other drugs in the same therapeutic class of pharmaceutical agents. Clinical need is judged by the criteria found in paragraph (e)(1)(i–ii) of this section. Cost effectiveness is determined based on criteria found in paragraph (e)(2) of this section.

(ii) OTC drugs placed on the uniform formulary, in general, will be treated the same as generic drugs on the uniform formulary for purposes of availability in MTF pharmacies, retail pharmacies, and the mail order pharmacy program and other requirements. However, upon the recommendation of the Pharmacy and Therapeutics Committee and approval of the Director, DHA, the requirement for a prescription may be waived for a particular OTC drug for certain emergency care treatment situations. In addition, a special copayment may be established under paragraph (i)(2)(xii) of this section for OTC drugs specifically used in certain emergency care treatment situations.

(i) * * *

(2) * * *

(i) * * *

(ii) For pharmaceutical agents obtained from a retail network pharmacy there is a:

(A) $17.00 co-payment per prescription required for up to a 30-day supply of a formulary pharmaceutical agent.

(B) $5.00 co-payment per prescription for up to a 30-day supply of a generic pharmaceutical agent.

(C) $44.00 co-payment per prescription for up to a 30-day supply of a non-formulary pharmaceutical agent.

(D) $0.00 co-payment for vaccines/immunizations authorized as preventive care for eligible beneficiaries.

(iii) For formulary and generic pharmaceutical agents obtained from a retail non-network pharmacy there is a 20 percent or $17.00 co-payment (whichever is greater) per prescription for up to a 30-day supply of the pharmaceutical agent.

(iv) For non-formulary pharmaceutical agents obtained at a retail non-network pharmacy there is a 20 percent or $44.00 co-payment (whichever is greater) per prescription for up to a 30-day supply of the pharmaceutical agent.

(v) For pharmaceutical agents obtained under the TRICARE mail-order program there is a:

(A) $13.00 co-payment per prescription for up to a 90-day supply of a formulary pharmaceutical agent.

(B) $0.00 co-payment for up to a 90-day supply of a generic pharmaceutical agent.

(C) $43.00 co-payment for up to a 90-day supply of a non-formulary pharmaceutical agent.

(D) $0.00 co-payment for smoking cessation pharmaceutical agents covered under the smoking cessation program.

* * * * *

(x) The per prescription co-payments established in this paragraph (i)(2) of this section may be adjusted periodically based on experience with the uniform formulary, changes in economic circumstances, and other appropriate factors. Any such adjustment must be approved by the Assistant Secretary of Defense (Health Affairs). These additional requirements apply:

(A) Beginning January 1, 2014, the amounts specified in this paragraph (i)(2) of this section shall be increased annually by the percentage increase in the cost-of-living adjustment by which retired pay is increased under 10 U.S. Code section 1401a for the year, rounded down to the nearest dollar. However, with respect to any amount of increase that is less than $1 or any amount lost in rounding down to the nearest dollar, that amount shall be carried over to, and accumulated with, the amount of the increase for the subsequent year or years and made when the aggregate amount of increases carried over for a year is $1 or more.

(B) Effective January 1, 2023 (unless otherwise provided by law), the Assistant Secretary of Defense for Health Affairs may adjust the amounts specified in this paragraph (i)(2) of this section as considered appropriate. Between January 1, 2014, and January 1, 2023, the only adjustments allowed are the cost of living adjustments described in paragraph (i)(2)(x)(A) of this section, unless otherwise provided by law.

* * * * *

(xii) *Special copayment rule for OTC drugs in the retail pharmacy network.* As a general rule, OTC drugs placed on the uniform formulary under paragraph (h)(5) of this section will have copayments equal to those for generic drugs on the uniform formulary. However, upon the recommendation of the Pharmacy and Therapeutics Committee and approval of the Director, DHA, the copayment may be established at $0.00 for any particular OTC drug in the retail pharmacy network.

(j) * * *

(4) Upon the recommendation of the Pharmacy and Therapeutics Committee, a generic drug may be classified as non-formulary if it is less cost effective than non-generic formulary drugs in the same drug class.

(5) The beneficiary copayment amount for any generic drug prescription may not exceed the total charge for that prescription.

* * * * *

Dated: September 15, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–22276 Filed 9–18–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2014–0783]

RIN 1625–AA08

Special Local Regulations for Marine Events, Spa Creek; Annapolis, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily change the enforcement periods of special local regulations for a recurring marine event in the Fifth Coast Guard District. These regulations apply to the MRE Tug of War, a recurring marine event, and would be effective on November 8, 2014. Special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of Spa Creek at Annapolis, MD during the event.

DATES: Comments and related material must be received by the Coast Guard on or before October 20, 2014.

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ronald Houck, U.S. Coast Guard Sector Baltimore, MD; telephone 410–576–2674, email *Ronald.L.Houck@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov,* or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as

having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number [USCG–2014–0783] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2014–0783) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Regulatory History and Information

This marine event is regulated at 33 CFR § 100.501. The dates of the event as published are October—last Saturday; or November—1st Saturday.

C. Basis and Purpose

The legal basis and authorities for this rulemaking establishing a special local regulation are found in 33 U.S.C. 1233, which authorize the Coast Guard to establish and define special local regulations. The Captain of the Port Baltimore is establishing a special local regulation for the waters of the Spa Creek, at Annapolis, MD to protect event participants, spectators and transiting vessels. Entry into this area is prohibited unless specifically authorized by the Captain of the Port Baltimore or designated representative.

D. Discussion of Proposed Rule

Marine events are frequently held on the navigable waters within the boundary of the Fifth Coast Guard District. The activities that typically comprise marine events include but are not limited to sailing regattas, power boat races, swim races and holiday parades. The regulation listing annual marine events within the Fifth Coast Guard District and their regulated dates is 33 CFR 100.501. The Table to § 100.501 identifies marine events by Captain of the Port zone. For a description of the geographical area of each Coast Guard Sector—Captain of the Port Zone, please see 33 CFR 3.25.

Event planners notified the Coast Guard of date changes for the ''MRE Tug of War'' marine event that is listed at 33 CFR 100.501, Table to § 100.501. This regulation temporarily changes the enforcement period for this marine event for 2014 only. The enforcement date for 2014 is November 8, 2014.

The annual ''MRE Tug of War,'' marine event is sponsored by the Maritime Republic of Eastport; and takes place on the waters of Spa Creek at Annapolis, MD. The regulation at 33 CFR 100.501 is effective annually for the MRE Tug of War marine event. The event consists of extending a 1,500-foot rope across the navigable waters of Spa Creek at Annapolis, MD. Participants on shore are assisted by sponsor-provided support craft. Therefore, to ensure the safety of participants and support vessels, 33 CFR 100.501 is enforced for the duration of the event. During the enforcement period vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander. Vessel traffic may contact the Coast Guard Patrol Commander to request permission to pass through the regulated area. If permission is granted, vessels must pass directly through the regulated area at safe speed and without loitering.

E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this rule is not significant for the following reasons: (i) The regulated area will be in effect for a limited duration; (ii) the regulated area has been narrowly tailored to impose the least impact on general navigation, yet provide the level of safety deemed necessary; and (iii) advance notifications will be made to the maritime community via marine information broadcasts and local notices to mariners, so mariners can adjust their plans accordingly. Additionally, this rulemaking does not change the permanent regulated areas that have been published in 33 CFR 100.501, Table to § 100.501. In some cases, vessel traffic may be able to transit the regulated area when the Coast Guard Patrol Commander grants permission to do so. For the above reasons, the Coast Guard does not anticipate any significant economic impact.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within the area where the marine event is being held. This regulation will not have a

significant impact on a substantial number of small entities because it will be enforced only during a marine event that has been permitted by the Coast Guard Captain of the Port. The Captain of the Port will ensure that small entities are able to operate in the area where the event is occurring by requesting permission from the Coast Guard Patrol Commander. Vessels may transit through the regulated area with the permission of the Patrol Commander. In some cases, vessels will be able to safely transit around the regulated area. Before the enforcement period, the Coast Guard will issue maritime advisories so mariners can adjust their plans accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children From Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves implementation of regulations within 33 CFR Part 100 applicable to organized marine events on the navigable waters of the United States that could negatively impact the safety of waterway users and shore side activities in the event area. The category of water activities includes but is not limited to sail boat regattas, boat parades, power boat racing, swimming events, crew racing, canoe and sail board racing. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. In the Table to § 100.501:

■ a. Suspend line No. (b.)17, from October 25, 2014 to November 1, 2014; and

■ b. On November 8, 2014, add line No. (b.)25 to the Table to § 100.501 to read as follows:

§ 100.501 Special Local Regulations; Marine Events in the Fifth Coast Guard District.

* * * * *

Table To § 100.501.—All coordinates listed in the Table to § 100.501 reference Datum NAD 1983.

No.	Date	Event	Sponsor	Location
*	*	*	*	*
(b.) Coast Guard Sector Baltimore—COTP Zone				
*	*	*	*	*
25.	November 8, 2014	MRE Tug of War	Maritime Republic of Eastport.	The waters of Spa Creek from shoreline to shoreline, extending 400 feet from either side of a rope spanning Spa Creek from a position at latitude 38°58′36.9″ N, longitude 076°29′03.8″ W on the Annapolis shoreline to a position at latitude 38°58′26.4″ N, longitude 076°28′53.7″ W on the Eastport shoreline.
*	*	*	*	*

Dated: August 28, 2014.

K.C. Kiefer,

Captain, U.S. Coast Guard, Captain of the Port Baltimore.

[FR Doc. 2014–21969 Filed 9–18–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2013–0935]

RIN 1625–AA00, 1625–AA11, and 1625–AA87

Regulated Navigation Areas and Limited Access Areas; Waterway Management of Apra Harbor, Guam

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise and consolidate existing regulated navigation areas, security zones and safety zones currently in place in Apra Harbor, Guam. This action is intended to replace a number of redundant, potentially confusing and outdated navigation regulations with a cogent regulatory framework. The goal of this rulemaking is to better meet the needs of the community today and help ensure the safe and efficient use of the harbor by clarifying and streamlining, thereby reducing vessel operator confusion while transiting the waters of Apra Harbor, Guam.

DATES: Comments and related material must be received by the Coast Guard on or before November 3, 2014. Requests for public meetings must be received by the Coast Guard on or before October 6, 2014.

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Terry Rice, Fourteenth Coast Guard District, U.S. Coast Guard; telephone (808) 535–3264; email *terry.l.rice1@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202–366–9826 or 800–647–5527.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

CFR Code of Federal Regulations
DHS Department of Homeland Security
ESQD Explosive Safe Quantity Distance
FR Federal Register
NPRM Notice of Proposed Rulemaking
RNA Regulated Navigation Area
§ Section

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov,* or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number USCG–2013–0935 in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number USCG–2013–0935 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not plan to hold any public meetings related to this NPRM. However, you may submit a request for a public meeting. Your request must be received by the Coast Guard on or before October 6, 2014, using one of the methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Regulatory History and Information

Navigational regulations of Apra Harbor have been in place in various forms dating back to the era of U.S. Navy administration of Guam. Some of the regulations predate the promulgation of the Ports and Waterways Safety Act of 1972, were initially included in 33 CFR parts 127 and 128, and subsequently re-codified in 33 CFR part 165 on July 8, 1982 as part of a regulatory reorganization effort. The regulations in part 165 were subsequently amended in 1986, 1990, 1996, 1998 and 2003. Between 1972 and 2003 four Regulated Navigation Areas, three security zones and two safety zones were created and/or amended. One of the security zones was subsequently removed, another changed to a safety zone, and an additional safety zone created.

Apra Harbor safety zone regulations in 33 CFR 165.1401 were last amended in 1990 (55 FR 18725, May 4, 1990). These zones were established as security zones in 1972 (37 FR 10800, 31 May 1972), amended in 1975 (40 FR 1016, Jan. 6, 1975), codified in 33 CFR 127.1401 (a) and (b) in 1982 as part of a regulatory reorganization effort (47 FR 29569, 29667, July 8, 1982), and were subsequently disestablished and re-established as safety zones in 1990 (55 FR 18725, May 4, 1990).

Apra Outer Harbor regulated navigation area regulations in 33 CFR 165.1402 were established by 33 CFR part 165 (47 FR 296660, July 8, 1982), and amended in 1996, and subsequently again in 1998 (63 FR 35533, June 30, 1998).

Apra Outer Harbor regulated navigation area regulations in 33 CFR 165.1404 were first established in 33 CFR part 127 in 1972 (37 FR 10801, May 31, 1972). They were moved to 33 CFR part 165 in 1982 (47 FR 29569, July 8, 1982), and amended in 1996 (61 FR 33660, June 28, 1996; and subsequently in 1998 (63 FR 35524, June 30, 1998).

Apra Harbor Security Zone C in 33 CFR 165.1404 was promulgated in 1990 (55 FR 18724, May 4, 1990).

Regulated Navigation Areas and Security Zones regulations in 33 CFR 165.1405 regarding Designated Escorted Vessels-Philippine Sea and Apra Harbor Guam (including Cabras Island Channel) were established in 2003 (68 FR 4383, Jan. 29, 2003).

C. Basis and Purpose

The legal *basis* for this rulemaking is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C 1231; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 160.5; and Department of Homeland Security Delegation No. 0170.1

Currently there are four Regulated Navigation Areas (RNA), one security zone and two safety zones within and approaching Apra Harbor. These regulations, included in 33 CFR 165.1401, 1402, 1404 and 1405, while intended to improve the safety and security of Apra Harbor and the mariners operating therein, are potentially confusing, overlapping, and do not adequately address current needs. The *purpose* of this rulemaking is to simplify the current regulations, taking into account relevant safety and security navigational requirements for the waters of Apra Harbor, including approaches to the Harbor. This proposed rulemaking would create a regulatory scheme that ensures the needs of all stakeholders are addressed in a concise, understandable format through consolidation of the regulated navigation areas and rationalization of limited access areas (safety or security zones).

A *regulated navigation area* is a water area within a defined boundary for which regulations for vessels navigating within the area have been established. See 33 CFR 165.10.

A *safety zone* is a water area, shore area, or water and shore area to which, for safety or environmental purposes, access is limited to authorized persons, vehicles, or vessels. It may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. See 33 CFR 165.20.

A *security zone* is an area of land, water, or land and water which is so designated by the Captain of the Port or District Commander for such time as necessary to prevent damage or injury to any vessel or waterfront facility, to safeguard ports, harbors, territories, or waters of the United States or to secure the observance of the rights and obligations of the United States. See 33 CFR 165.30.

D. Discussion of Proposed Rule

The Coast Guard published an advance notice of proposed rulemaking (ANPRM) requesting comments on this subject on January 10, 2014 (79 FR 1789) and held two public meetings on January 22, 2014, at Port Authority Guam. Three comments were received. One comment requested that pre-notification be the only requirement imposed on commercial vessels transiting Apra Harbor safety zones. While the proposed regulations cannot guarantee admission to a safety zone, the Captain of the Port supports the need for vessels to be able to transit the harbor and the proposed regulations include a system to allow vessels to contact the COTP to arrange transit through the regulated areas to the maximum extent possible. A comment from a yacht club representative asked general questions regarding the definitions of the terms ''safety zone'' and ''security zone,'' which are included in this preamble. Comments provided by the Port of Guam, and

Matson Navigation were supportive of reducing the restrictions on navigation.

Having considered all comments received on the ANPRM, the Coast Guard proposes to:

- Revise 33 CFR 165.1401 by:
  - Removing the safety zone around Wharf H as the wharf is no longer used for explosives cargo handling on a regular basis and removing Wharf H terminology in the special regulation paragraph, as it no longer applies.
  - Expanding and re-designating Naval Wharf Kilo as Safety Zones A and B to address the explosive safe distances, required by increasing volumes of explosive cargoes handled by the wharf, while assuring operational flexibility to maritime operators under varying cargo load conditions and their explosive arcs. The activation and enforcement of Safety Zone A will be visually indicated by a red (BRAVO) flag and a ''SAFETY ZONE A'' sign displayed at Naval Wharf Kilo. The activation and enforcement of Safety Zone B will be visually indicated by a red (BRAVO) flag and a ''SAFETY ZONE B'' sign displayed at Naval Wharf Kilo.
- Remove 33 CFR 165.1402 because:
  - The Regulated Navigation Area (RNA) designated in paragraph (a) is redundant and less precise than a subsequent RNA addressing the area, 33 CFR 165.1405 (a)(1) and (2), that was made effective January 29, 2003 (68 FR 4383, Jan. 29, 2003).
  - The existing § 165.1402(b) regulations are outdated, concurrently addressed by Coast Guard anchorage regulation 33 CFR 110.238, and local government harbor regulations.
- Amend 33 CFR 165.1405 by:
  - Removing the words ''(including Cabras Island Channel)'' from the section heading,
  - Removing paragraph (a)(4) because Cabras Island Channel is already encompassed by paragraph (a)(2), Apra Harbor.
  - Revising paragraph (a)(2) by replacing a reference to ''Apra Harbor'' with ''Apra Outer Harbor.'' This is appropriate because the current regulation is redundant in addressing the waters of Inner Apra Harbor that are restricted by existing U.S. Army Corps of Engineers regulation 33 CFR 334.1430.

E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This rulemaking will not adversely impact the economy or a segment of the economy in Guam, interfere with another agency, alter any entitlements, grants, user fees, or loans, or raise a novel or controversial question of law or policy. This rulemaking is intended to streamline the current regulations in place, actually decreasing the burden on waterway users. Further, although the intention is to modify expand the safety zones around Naval Wharf Kilo, traffic would be still permitted to pass through the zone with the permission of the Captain of the Port. In fact, providing two zones also limits the burden on the mariner, allowing for a closer approach to Naval Wharf Kilo because when the Explosive Safe Quantity Distance (ESQD) is decreased only Safety Zone A will be enforced.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. This rulemaking is intended to streamline the current regulations in place, actually decreasing the burden on certain small entities and waterway users. Further, although the intention is to expand the safety zone around Naval Wharf Kilo, traffic would be still permitted to pass through the zone with the permission of the Captain of the Port.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children From Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the consolidation and rationalization of existing Apra Harbor navigation regulations. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 165.1401 to read as follows:

§ 165.1401 Apra Harbor, Guam—safety zones.

(a) Location. (1) The following is designated Safety Zone A: The waters of Apra Outer Harbor encompassed within an arc of 1,000 yards radius centered at the center of Naval Wharf Kilo, located at 13 degrees 26′′44.5″ N and 144 degrees 37′50.7″ E. (Based on World Geodetic System 1984 Datum).

(2) The following is designated Safety Zone B: The waters of Apra Outer Harbor encompassed within an arc of 1,400 yards radius centered at the center of Naval Wharf Kilo, located at 13 degrees 26′44.5″ N and 144 degrees 37′50.7″ E. (Based on World Geodetic System 1984 Datum).

(b) *Special regulations.* (1) Safety Zone A, described in paragraph (a) of this section, will only be enforced when Naval Wharf Kilo, or a vessel berthed at Naval Wharf Kilo, is displaying a red (BRAVO) flag by day or a red light by night, accompanied by a ''SAFETY ZONE A'' sign.

(2) Safety Zone B described in paragraph (a) of this section will only be enforced when Naval Wharf Kilo, or a vessel berthed at Naval Wharf Kilo, is displaying a red (BRAVO) flag by day or a red light by night, accompanied by a ''SAFETY ZONE B'' sign.

(3) Under general regulations in § 165.23, entry into the zones described in paragraph (a) of this section is prohibited unless authorized by the Captain of the Port, Guam.

§ 165.1402 [Removed]

■ 3. Remove § 165.1402.

■ 4. In § 165.1405, remove paragraph (a)(4), and revise the section heading and paragraph (a)(2) to read as follows:

§ 165.1405 Regulated Navigation Areas and Security Zones; Designated Escorted Vessels–Philippine Sea and Apra Harbor, Guam, and Tanapag Harbor, Saipan, Commonwealth of the Northern Mariana Islands (CNMI).

(a) * * *

(2) All waters from surface to bottom of Apra Outer Harbor, Guam, shoreward of the COLREGS Demarcation line as described in 33 CFR part 80.

* * * * *

Dated: September 4, 2014.

C. B. Thomas,

Rear Admiral, U.S. Coast Guard, Commander, Fourteenth Coast Guard District.

[FR Doc. 2014–22428 Filed 9–18–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2014–0647, FRL–9916–85-Region 9]

Approval and Promulgation of Air Quality Implementation Plans; Arizona; Regional Haze State and Federal Implementation Plans; Reconsideration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a source-specific revision to the Arizona State Implementation Plan (SIP) that establishes an alternative to best available retrofit technology (BART) for Steam Units 2 and 3 (ST2 and ST3) at Arizona Electric Power Cooperative's (AEPCO) Apache Generating Station (Apache). The SIP revision also revises the emission limit for nitrogen oxides (NO_X) applicable to Steam Unit 1 (ST1), when it is operated in combined-cycle mode with Gas Turbine 1 (GT1). EPA proposes to find that the BART alternative for ST2 and ST3 would provide greater reasonable progress

toward natural visibility conditions than BART, in accordance with the requirements of the Clean Air Act (CAA) and EPA's Regional Haze Rule (RHR). We also propose to approve the revision to the NO_X emission limit for ST1 and GT1. In conjunction with this proposed approval, we propose to withdraw those portions of the federal implementation plan (FIP) that address BART for Apache. We previously partially granted AEPCO's petition for reconsideration of that FIP and are now proposing to find that withdrawal of the FIP, as it applies to Apache, constitutes our action on AEPCO's Petition for Reconsideration of the FIP.

DATES: Written comments must be submitted on or before November 3, 2014. Requests for public hearing must be received on or before October 6, 2014.

ADDRESSES: See the **SUPPLEMENTARY INFORMATION** section for further instructions on where and how to learn more about this proposal, request a public hearing, or submit comments.

FOR FURTHER INFORMATION CONTACT: Thomas Webb, U.S. EPA, Region 9, Planning Office, Air Division, Air-2, 75 Hawthorne Street, San Francisco, CA 94105. Thomas Webb can be reached at telephone number (415) 947–4139 and via electronic mail at *webb.thomas@epa.gov.*

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

Table of Contents

I. General Information
II. Background
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I. General Information

A. Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.
- The initials *ADEQ* mean or refer to the Arizona Department of Environmental Quality.
- The initials *AEPCO* mean or refer to Arizona Electric Power Cooperative.
- The words *Arizona* and *State* mean the State of Arizona.
- The initials *BART* mean or refer to Best Available Retrofit Technology.
- The term *Class I area* refers to a mandatory Class I Federal area.[1]
- The initials *CBI* mean or refer to Confidential Business Information.
- The initials *EGU* mean or refer to Electric Generating Unit.
- The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.
- The initials *FIP* mean or refer to Federal Implementation Plan.
- The initials *GT1* mean or refer to Gas Turbine Unit 1.
- The initials *LNB* mean or refer to low-NO_X burners.
- The initials *MMBtu* mean or refer to million British thermal units
- The initials NO_X mean or refer to nitrogen oxides.
- The initials *OFA* mean or refer to over fire air.
- The initials PM_{10} mean or refer to particulate matter with an aerodynamic diameter of less than 10 micrometers.
- The initials *RHR* mean or refer to EPA's Regional Haze Rule.
- The initials *SCR* mean or refer to Selective Catalytic Reduction.
- The initials *SIP* mean or refer to State Implementation Plan.
- The initials SO_2 mean or refer to sulfur dioxide.
- The initials *ST1* mean or refer to Steam Unit 1.
- The initials *ST2* mean or refer to Steam Unit 2.
- The initials *ST3* mean or refer to Steam Unit 3.

B. Docket

The proposed action relies on documents, information, and data that are listed in the index on *http://www.regulations.gov* under docket number EPA–R09–OAR–2014–0647. Although listed in the index, some information is not publicly available (e.g., Confidential Business Information (CBI)). Certain other material, such as copyrighted material, is publicly available only in hard copy form. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at the Planning Office of the Air Division, AIR–2, EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105. EPA requests that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 9–5:00 PDT, excluding Federal holidays.

C. Instructions for Submitting Comments to EPA

Written comments must be submitted on or before November 3, 2014. Submit your comments, identified by Docket ID No. EPA–R09–OAR–2014–0647, by one of the following methods:

- *Federal Rulemaking portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: webb.thomas@epa.gov..*
- *Fax:* 415–947–3579 (Attention: Thomas Webb).
- *Mail, Hand Delivery or Courier:* Thomas Webb, EPA Region 9, Air Division (AIR–2), 75 Hawthorne Street, San Francisco, California 94105. Hand and courier deliveries are only accepted Monday through Friday, 8:30 a.m.–4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

EPA's policy is to include all comments received in the public docket without change. We may make comments available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be CBI or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CBI or that is otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA, without going through *http://www.regulations.gov,* we will include your email address 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 not include special characters or any form of encryption, and be free of any defects or viruses.

D. Submitting Confidential Business Information

Do not submit CBI to EPA through *http://www.regulations.gov* or by email. Clearly mark the part or all of the information that you claim as CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside

[1] Although states and tribes may designate as Class I additional areas which they consider to have visibility as an important value, the requirements of the visibility program set forth in section 169A of the CAA apply only to ''mandatory Class I Federal areas.''

of the disk or CD–ROM as CBI and identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, you must submit a copy of the comment that does not contain the information claimed as CBI for inclusion in the public docket. We will not disclose information so marked except in accordance with procedures set forth in 40 CFR part 2.

E. Tips for Preparing Your Comments

When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (e.g., subject heading, **Federal Register** date and page number).
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the identified comment period deadline.

F. Public Hearings

If anyone contacts EPA by October 6, 2014 requesting to speak at a public hearing, EPA will schedule a public hearing and announce the hearing in the **Federal Register**. Contact Thomas Webb at (415) 947–4139 or at *webb.thomas@epa.gov* to request a hearing or to determine if a hearing will be held.

II. Background

A. Statutory and Regulatory Background

This section provides a brief overview of the requirements of the CAA and RHR, as they apply to this particular action. Please refer to our previous rulemakings on the Arizona Regional Haze SIP for additional background regarding the visibility protection provisions of the CAA and the RHR.[2]

In section 169A of the 1977 Amendments to the CAA, Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes as a national goal the ''prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution.'' [3] It also directs states to evaluate the use of retrofit controls at certain larger, often uncontrolled, older stationary sources in order to address visibility impacts from these sources. Specifically, section 169A(b)(2)(A) of the CAA requires states to revise their SIPs to contain such measures as may be necessary to make reasonable progress towards the natural visibility goal, including a requirement that certain categories of existing major stationary sources built between 1962 and 1977 (known as ''BART-eligible'' sources) procure, install, and operate BART. In the 1990 CAA Amendments, Congress amended the visibility provisions in the CAA to focus attention on the problem of regional haze, which is visibility impairment produced by a multitude of sources and activities located across a broad geographic area.[4]

In 1999, we promulgated the RHR, which requires states to develop and implement SIPs to ensure reasonable progress toward improving visibility in mandatory Class I Federal areas (Class I areas) [5] by reducing emissions that cause or contribute to regional haze.[6] Under the RHR, states are directed to conduct BART determinations for BART-eligible sources that may be anticipated to cause or contribute to any visibility impairment in a Class I area.[7] In lieu of requiring source-specific BART controls, states also have the flexibility to adopt alternative measures, as long as the alternative provides greater reasonable progress towards natural visibility conditions than BART (i.e., the alternative must be ''better than BART'').[8]

B. Summary of State Submittals and EPA Actions

1. 2011 Arizona RH SIP

On February 28, 2011, the Arizona Department of Environmental Quality (ADEQ) submitted a Regional Haze SIP under Section 308 of the RHR (''Arizona RH SIP'') to EPA. This submittal included BART determinations for nitrogen oxides (NO_X), particulate matter with an aerodynamic diameter of less than 10 micrometers (PM_{10}), and sulfur dioxide (SO_2) at Apache Units ST1, ST2, and ST3. Unit ST1 is a wall-fired boiler with a net unit output of 85 MW that burns pipeline-quality natural gas as its primary fuel. Units ST2 and ST3 are both dry-bottom, Riley Stoker turbo-fired boilers, operating on sub-bituminous coal, each with a gross unit output of 204 MW.

2. 2012 EPA Action on Arizona RH SIP and FIP

On December 5, 2012, we issued a final rule approving in part and disapproving in part ADEQ's BART determinations for three sources, including Apache.[9] In particular, we approved ADEQ's BART determinations for NO_X, PM_{10}, and SO_2 at Apache ST1 and PM_{10} and SO_2 at ST2 and ST3, but disapproved ADEQ's BART determinations for NO_X at ST2 and ST3. We also found that the SIP lacked enforceable emission limits for all units and pollutants. In the same action, we promulgated a FIP for the disapproved portions of the SIP, including NO_X BART determinations for ST2 and ST3. We determined that BART for NO_X at ST2 and ST3 was an emission limit of 0.070 pounds per million British thermal units (lb/MMBtu) determined as an average across the two units, based on a rolling 30-boiler-operating-day average, which is achievable with the use of low-NO_X burners (LNB), overfire air (OFA) and selective catalytic reduction (SCR). We also established compliance dates and requirements for equipment maintenance, monitoring, recordkeeping, and reporting for all units and all pollutants.

3. 2013 AEPCO Petition for Reconsideration of RH FIP for Apache Generating Station

On February 4, 2013, AEPCO submitted a petition to EPA seeking reconsideration of the final rule (''AEPCO Petition'').[10] On May 29, 2013, AEPCO submitted a supplemental petition providing an alternative to the BART determinations in that rule (''Apache BART Alternative'').[11] The Apache BART Alternative consisted of a conversion to pipeline natural gas (PNG) combustion at ST2 and a NO_X emission

[2] 77 FR 42834, 42837–42839 (July 20, 2012), (Arizona Regional Haze ''Phase 1'' Rule) 77 FR 75704, 75709–75712 (December 21, 2012), (Arizona Regional Haze ''Phase 2'' Rule).

[3] 42 U.S.C. 7491(a)(1).

[4] See CAA section 169B, 42 U.S.C. 7492.

[5] Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977. 42 U.S.C. 7472(a). When we use the term ''Class I area'' in this action, we mean a ''mandatory Class I Federal area.''

[6] See generally 40 CFR 51.308.

[7] 40 CFR 51.308(e).

[8] 40 CFR 51.308(e)(2).

[9] 77 FR 72512.

[10] Letter from Eric Hiser, Jorden, Bischoff and Hiser, to Lisa Jackson, EPA (February 2, 2013).

[11] Letter from Eric Hiser, Jorden, Bischoff and Hiser, to Robert Perciasepe and Jared Blumenfeld, EPA (May 29, 2013).

limit based upon selective non-catalytic reduction (SNCR) at ST3. On June 6, 2013, we sent a letter to representatives of AEPCO granting partial reconsideration of the final rule under CAA section 307(d)(7)(B).[12] Specifically, we stated that we were granting reconsideration of the emission limits for NO_X, PM_{10}, and SO_2 at ST2 and ST3, the compliance methodology for NO_X at ST2 and ST3, and the provisions of the rule applicable to ST1 and GT1.

4. 2013 Arizona RH SIP Revision and Clarification

On May 3, 2013, ADEQ submitted a revision to the Arizona RH SIP.[13] Among other things, the SIP revision clarified that the BART emission limits for ST1 apply when ST1 operates alone or if ST1 is operated in combined-cycle mode with the adjacent GT1, but not to (a) GT1 in stand-alone simple-cycle operation or (b) ST1/GT1 when ST1 burners are shut off and ST1 is not producing electricity.[14] EPA approved this clarification in our July 30, 2013 Phase 2 final rule on the Arizona RH SIP.[15]

5. 2014 Arizona RH SIP Revision for Apache Generating Station

On May 13, 2014, ADEQ submitted a revision to the Arizona RH SIP that incorporated the Apache BART Alternative (''Apache SIP Revision'').[16] The Apache SIP Revision also revised the NO_X emission limit for ST1 during combined-cycle operation. The Apache SIP Revision is the subject of this proposal.

III. The Apache SIP Revision

A. Summary of the Apache SIP Revision

The Apache SIP Revision consists of two components: a BART Alternative for ST2 and ST3, and a revised NO_X emission limit for ST1 and GT1 when operated in combined-cycle mode.

1. Apache BART Alternative

Under the Apache BART Alternative, ST2 would be converted from a primarily coal-fired unit to a unit that combusts pipeline-quality natural gas, while ST3 would remain as a coal-fired unit and would be retrofitted with SNCR. The emission limits associated with the Alternative are summarized in Table 1. The compliance date for all limits is December 5, 2017, except that a more stringent limit for PM_{10} at ST2 (0.008 lb/MMBtu) that will be effective on December 5, 2018.

TABLE 1—EMISSION LIMITS FOR APACHE BART ALTERNATIVE

Unit	Emission limit (lb/MMbtu, averaged over 30 boiler-operating days)		
	NO_X	PM_{10}	SO_2
ST2	0.085	0.01, then 0.008 (effective December 5, 2018).	0.00064
ST3	0.23	0.03	0.15

ADEQ incorporated the revised emission limits, as well as associated compliance deadlines and monitoring, recordkeeping, and reporting requirements, as an addendum to Apache's Operating Permit, which was submitted as part of the Apache SIP Revision.[17] The SIP revision also includes ADEQ's determination that the Apache BART Alternative is ''better than BART,'' based on total estimated emissions reductions, reductions in visibility impairing pollutants, IMPROVE monitoring data, and improvements in modeled visibility impacts from Apache.[18] More information regarding ADEQ's analysis is set forth below, along with EPA's evaluation of the analysis. On July 18, 2014, EPA determined that the Apache SIP Revision was complete under CAA section 110(k)(1)(B).[19]

2. Revised Emission Limit for ST1 and GT1

The Apache SIP Revision revises the NO_X emission limit for the combined-cycle operation of ST1 with GT1 from 0.056 lb/MMBtu to 0.10 lb/MMBtu, based on a determination that the 0.056 lb/MMBtu limit is not achievable during combined cycle operations and that inclusion of emissions from GT1 would result in an emission rate of 0.10 lb/MMbtu.[20] In order to ensure that this revision does not result in an overall increase in NO_X emissions, the SIP Revision also sets a 1205 lb/day limit, based on a 30-calendar-day average, for ST1 operating in standalone mode or in combined-cycle mode with GT1. ADEQ derived this emission limit based on the existing emission limit of 0.056 lb/MMBtu (the original NO_X emission limit required for ST1 and GT1 in combined-cycle mode), and a conservative estimate of the heat rate (10,985 Btu/kWhr) over the primary operating range of ST1 and GT1 in combined-cycle operation.[21]

B. EPA's Evaluation of Apache BART Alternative

The RHR requires that a SIP revision establishing a BART alternative include three elements as listed below. We have evaluated the Apache BART Alternative with respect to each of these elements.

- A demonstration that the emissions trading program or other alternative measure will achieve greater reasonable progress than would have resulted from the installation and operation of BART at all sources subject to BART in the State and covered by the alternative program.[22]
- A requirement that all necessary emissions reductions take place during

[12] Letter from Jared Blumenfeld, EPA, to Eric Hiser, Jorden, Bischoff and Hiser (June 6, 2013).

[13] Letter from Eric Massey, ADEQ, to Jared Blumenfeld, EPA (May 3, 2013), Enclosure 3, Arizona RH SIP Revision.

[14] Id. Appendix D, pages 5–6 (footnotes to tables 1.1, 1.2 and 1.3) and page 49. The reason for this distinction is that gas turbines are not among the 26 industrial source categories included in the definition of ''existing stationary facility'' in the Regional Haze Rule, whereas combined cycle turbines are included in this list. See 40 CFR 51.301; 40 CFR part 51 appendix Y, section II.A.1.

[15] See Supplemental Proposal, 78 FR 46142, 46175 (codified at 40 CFR 52.120(c)(158)(ii)(A)(*1*)(*iii*)).

[16] Letter from Eric Massey, ADEQ, to Jared Blumenfeld, EPA (May 13, 2014), Enclosure 3, Revision to the Arizona RH Plan for AEPCO Apache Generating Station.

[17] Apache SIP Revision, Appendix B, Significant Revision No. 59195 to Air Quality Control Permit No. 55412 (''Apache Permit Revision'')(issued May 13, 2014).

[18] Apache SIP Revision, sections 2.2 and 2.3.

[19] Letter from Deborah Jordan, EPA, to Eric Massey, ADEQ (July 18, 2014).

[20] See letter from Eric Hiser, Jorden, Bischoff and Hiser, to Eric Massey, ADEQ (November 25, 2013).

[21] Id. section 3.1, footnote 9.

[22] 40 CFR 51.308(e)(2)(i).

the period of the first long-term strategy for regional haze.[23]

• A demonstration that the emissions reductions resulting from the alternative measure will be surplus to those reductions resulting from measures adopted to meet requirements of the CAA as of the baseline date of the SIP.[24]

1. Demonstration of the Alternative Measure Will Achieve Greater Reasonable Progress

Pursuant to 40 CFR 51.308(e)(2)(i), ADEQ must demonstrate that the alternative measure will achieve greater reasonable progress than would have resulted from the installation and operation of BART at all sources subject to BART in the State and covered by the alternative program. This demonstration must be based on five criteria, which are addressed below.

a. A List of All BART-Eligible Sources Within the State

Pursuant to 40 CFR 51.308(e)(2)(i)(A), the SIP must include a list of all BART-eligible sources within the State. ADEQ included a list of BART-eligible sources in the Arizona RH SIP.[25] As part of the Phase 2 Arizona regional haze rulemaking, EPA approved the majority of ADEQ's BART-eligibility determinations, but disapproved ADEQ's finding that Tucson Electric Power (TEP) Sundt Unit 4 was not BART-eligible.[26] In the Phase 3 Arizona regional haze rulemaking, EPA determined that TEP Sundt Unit 4 was BART-eligible and subject-to-BART and made final BART determinations for this unit.[27] Thus, all BART-eligible sources in the State have been addressed either in a SIP or FIP. We propose to find that the existing Arizona RH SIP and FIP fulfill the requirement of 40 CFR 51.308(e)(2)(i)(A) for a list of all BART-eligible sources within the State.

b. A List of All BART-Eligible Sources and All Bart Source Categories Covered by the Alternative Program

Pursuant to 40 CFR 51.308(e)(2)(i)(B), each BART-eligible source in the State must be subject to the requirements of the alternative program or have a federally enforceable emission limitation determined by the State and approved by EPA as meeting BART. In this instance, the alternative program covers only Apache ST2 and ST3. All other BART-eligible sources and units in the State have already been addressed in the Arizona RH SIP and FIP.[28] Therefore, we propose to find that the Apache SIP Revision meets the requirement of 40 CFR 51.308(e)(2)(i)(B).

c. Analysis of BART and Associated Emission Reductions

Pursuant to 40 CFR 51.308(e)(2)(i)(C), the SIP must include an analysis of BART and associated emission reductions at ST2 and ST3. As noted above, ADEQ's BART analyses and determinations for ST2 and ST3 were included in the Arizona RH SIP. EPA approved ADEQ's BART determinations for PM_{10} and SO_2, but disapproved ADEQ's BART determination for NO_X at ST2 and ST3 and conducted our own BART analysis and determination for NO_X BART for ST2 and ST3 in a FIP.

In the Apache SIP Revision, ADEQ compared the BART Alternative both to ADEQ's original BART determinations and to EPA's BART determinations in the FIP. For purposes of our evaluation, we consider BART for ST2 and ST3 to consist of a combination of (1) ADEQ's BART determinations for PM_{10} and SO_2, which were approved into the applicable SIP, and (2) EPA's BART determination for NO_X in the Arizona RH FIP. These BART determinations are summarized in Table 2.

TABLE 2—BART EMISSION LIMITS FOR APACHE

Unit	Emission limit (lb/MMbtu, averaged over 30 boiler-operating days)		
	NO_X	PM_{10}	SO_2
ST2	0.070 (across two units)	0.03	0.15
ST3		0.03	0.15

In the Technical Support Document (TSD) included with the Apache SIP Revision, ADEQ calculated estimated annual emission reductions achievable with BART by comparing projected emissions from ST2 and ST3 with BART[29] to baseline emissions.[30] The results of these calculations are shown in Table 3. Because BART for PM_{10} and SO_2 was determined to be consistent with existing controls, no emission reductions are expected to result from BART. However, significant NO_X emission reductions (4,502 tpy) are expected to result from implementation of BART.

TABLE 3—SUMMARY OF EMISSION REDUCTIONS ACHIEVABLE WITH BART AT APACHE

	ST2 and ST3 Total emissions (tpy)		
	NO_X	PM_{10}	SO_2
Baseline ("2013 Baseline")[a]	5,441	403	2,013
BART ("2013 SCR")[b]	939	403	2,013
Emission Reduction ("2013 SCR" minus "2013 Baseline")[c]	4,502	0	0

[a] Apache SIP Revision TSD Table 6.

[23] 40 CFR 51.308(e)(2)(iii).

[24] 40 CFR 51.308(e)(2)(iv).

[25] See 77 FR 75704, 75719–75720; 78 FR 46142, 46151–46152.

[26] Id.

[27] 79 FR 52420.

[28] See generally 77 FR 72512, 78 FR 46142.

[29] ADEQ refers to the BART control scenario as "2013 SCR." See TSD page 4 ("This scenario assumes SCR, LNB, and OFA implementation as well as ESP and wet scrubber upgrades.").

[30] ADEQ considered two different baseline scenarios—2007 (assuming use of Electrostatic Precipitation (ESP) and wet scrubber upgrades) and 2013 (assuming use of OFA, ESP, and wet scrubber upgrades). See SIP TSD at 3. We have chosen to employ the 2013 Baseline, consistent with our original BART analysis, which used a baseline with OFA. See 78 FR 42856, Table 16.

[b] *Id.*
[c] *Id.* Table 7.

We propose to find that ADEQ has met the requirement for an analysis of BART and associated emission reductions achievable at Apache ST2 and ST3 under 40 CFR 51.308(e)(2)(i)(C).

d. Analysis of Projected Emissions Reductions Achievable Through the BART Alternative

In the Apache SIP Revision TSD, ADEQ calculated emissions reductions achievable through the BART Alternative by comparing estimated annual emissions from ST2 and ST3 under the BART Alternative [31] with baseline emissions. The results of these calculations are shown in Table 4.

TABLE 4—SUMMARY OF EMISSION REDUCTIONS ACHIEVABLE WITH APACHE BART ALTERNATIVE

	ST2 and ST3 Total emissions (tpy)		
	NO_X	PM_{10}	SO_2
Baseline (“2013 Baseline”) [a]	5,441	403	2,013
BART Alternative (“2013 9bv2 PNGt”) [b]	2,122	262	1,056
Emission Reduction (“2013 9bv2 PNGt” minus “2013 Baseline”) [c]	3,318	141	957

[a] Apache SIP Revision TSD Table 6.
[b] *Id.*
[c] *Id.* Table 7.

We propose to find that ADEQ has met the requirement for an analysis of the projected emissions reductions achievable through the alternative measure under 40 CFR 51.308(e)(2)(i)(D).

e. A Determination That the Alternative Achieves Greater Reasonable Progress Than Would Be Achieved Through the Installation and Operation of BART

Pursuant to 40 CFR 51.308(e)(2)(i)(E), the State must provide a determination that the alternative achieves greater reasonable progress than BART under 40 CFR 51.308(e)(3) or otherwise based on the clear weight of evidence. 40 CFR 51.308(e)(3), in turn, provides two different tests for determining whether the alternative achieves greater reasonable progress than BART. If the distribution of emissions is not substantially different than under BART, and the alternative measure results in greater emission reductions, then the alternative measure may be deemed to achieve greater reasonable progress. If the distribution of emissions is significantly different, however, then the State must conduct dispersion modeling to determine differences in visibility between BART and the trading program for each impacted Class I area, for the worst and best 20 percent of days. The modeling would demonstrate ‘‘greater reasonable progress’’ if both of the following two criteria are met: (1) Visibility does not decline in any Class I area, and; (2) there is an overall improvement in visibility, determined by comparing the average differences between BART and the alternative over all affected Class I areas.

In the Apache SIP Revision, ADEQ determined that neither of the two tests under 51.308(e)(3) was appropriate for evaluating the Apache BART Alternative. Therefore, ADEQ conducted a weight-of-evidence analysis based on reductions in visibility-impairing pollutants, IMPROVE monitoring data, and improvements in modeled visibility impacts from Apache.

The reductions in visibility-impairing pollutants from the Apache BART Alternative, as estimated by ADEQ, are summarized in Table 4 above. As noted above, compared with BART, ADEQ projects that the Apache BART Alternative will result in 1183 tpy more NO_X emissions, 957 tpy fewer SO_2 emissions, and 141 tpy fewer PM_{10} emissions than BART.

ADEQ next considered historical emission inventory and ambient monitoring data. In particular, ADEQ noted that, in 2008, state-wide emissions of SO_2 (84,784 tons) were less than a third of state-wide NO_X emissions (290,344 tons). ADEQ also reviewed ambient monitoring data from Class I areas impacted by emissions from Apache and found that visibility impairment due to SO_2 was more than three times greater than impairment from NO_X.[32] Based on the monitoring and emission inventory data, ADEQ concluded that, ‘‘for the State of Arizona, it is likely more beneficial to reduce SO_2 emissions as compared to NO_X emissions when applying pollution controls to point sources to improve class I area visibility. Therefore, ADEQ believes AEPCO’s proposed alternative control methodology would realize higher real-world visibility benefits than the other control methods tested.’’ [33]

Finally, ADEQ considered the results of air quality modeling (using the CALPUFF model) performed by AEPCO to assess the visibility impacts of Apache under various control scenarios.[34] These results, summarized in Table 5, show that, compared with BART, the Apache BART Alternative would result in greater visibility improvement at all but two areas (Gila Wilderness Area and Mount Baldy Wilderness Area), and would result in greater improvement on average across all areas. In addition, implementation of the Apache BART Alternative would result in improvement at all affected Class I areas, in comparison to the base case.

[31] ADEQ refers to the BART Alternative as ‘‘2013 9bv2 PNGt.’’ See TSD page 4 (‘‘The 2013 9bv2 PNGt scenario reflects the implementation of the AEPCO alternative controls . . .’’).

[32] Apache SIP Revision page 5.

[33] Id. TSD page 13.

[34] Id. See also TSD pages 15–22.

TABLE 5—MODELED VISIBILITY IMPACTS OF APACHE

Class I area	Baseline (2013 baseline)		BART (2013 SCR)		BART alternative (2013 9bv2 PNGt)	
	Visibility impacts (dv)		Visibility impacts (dv)		Visibility impacts (dv)	
	Avg 98th	22nd high	Avg 98th	22nd high	Avg 98th	22nd high
Chiricahua National Monument	3.328	3.409	1.978	1.996	1.882	1.909
Chiricahua Wilderness Area	3.418	3.464	1.886	1.979	1.851	1.852
Galiuro Wilderness Area	2.178	2.219	1.208	1.205	1.111	1.135
Gila Wilderness Area	0.642	0.629	0.262	0.279	0.287	0.295
Mazatzal Wilderness Area	0.266	0.277	0.156	0.147	0.126	0.124
Mt. Baldy Wilderness Area	0.269	0.282	0.109	0.114	0.112	0.116
Saguaro National Park	2.502	2.493	1.421	1.463	1.346	1.317
Sierra Ancha Wilderness Area	0.289	0.287	0.153	0.158	0.130	0.128
Superstition Wilderness Area	0.596	0.612	0.313	0.315	0.275	0.283
Average	1.499	1.519	0.832	0.851	0.791	0.795

NOTES: ''Avg 98th'' refers to the average of the annual 98th percentile visibility impacts in deciviews (dv) from 2001–2003. ''22nd high'' refers to the 22nd highest visibility impact in deciviews for combined 2001–2003 data. In all modeling scenarios, background ammonia concentrations are 1 ppb for Method 8 estimations using best 20-percent days visibility.

In evaluating ADEQ's weight-of-evidence demonstration, we have considered all elements of ADEQ's analysis, but we have given the most weight to the visibility impacts based on air quality modeling. In order to evaluate whether the Apache BART Alternative is indeed better than BART, we have applied a modified version of the two-prong modeling test set forth in 40 CFR 51.308(e)(3), using the air quality modeling results. In particular, rather than considering the best twenty-percent days and worst twenty-percent days, as provided for under 40 CFR 51.308(e)(3), we have considered the 98th percentile impacts (averaged across three years), consistent with the approach recommended by the BART Guidelines for comparing control alternatives at a single source.[35] Under the first prong of the test (the ''no-degradation prong''), we compared the Apache BART Alternative to baseline conditions to ensure that the alternative will not result in worsened conditions anywhere than would otherwise exist.[36] The Apache BART Alternative clearly meets this prong, as the visibility modeling results indicated that the Alternative will result in improved visibility at all affected Class I areas compared with baseline conditions, as shown in Table 5. Under the second prong, we compared the average differences between BART and the Apache BART Alternative over all affected Class I areas to ensure that there is an overall improvement in visibility.[37] The Apache BART Alternative also meets this prong, as the modeling results indicated that the Alternative would result in improved visibility, on average, across all Class I Areas, compared with BART.

Based on the weight-of-evidence presented, we propose to approve ADEQ's determination that the Apache BART Alternative would achieve greater reasonable progress than BART under 40 CFR 51.308(e)(2)(i)(E). In particular, the BART Alternative will result in 957 tpy fewer SO_2 emissions compared to BART. In spite of more NO_X emissions (1183 tpy) compared to BART, modeling submitted by ADEQ shows that the BART Alternative will result in improved visibility at all affected Class I areas compared with baseline conditions and will result in improved visibility, on average, across all Class I Areas, compared with BART. This conclusion is further supported by the IMPROVE visibility monitoring data, which indicates that all of the affected Class I areas have more than three times the visibility impairment due to SO_2 compared to NO_X.

2. Requirement That Emission Reductions Take Place During Period of First Long-Term Strategy

Pursuant to 40 CFR 51.308(e)(2)(iii), the State must ensure that all necessary emission reductions take place during the period of the first long-term strategy for regional haze, i.e. by December 31, 2018. The RHR further provides that, to meet this requirement, the State must provide a detailed description of the alternative measure, including schedules for implementation, the emission reductions required by the program, all necessary administrative and technical procedures for implementing the program, rules for accounting and monitoring emissions, and procedures for enforcement.[38]

As noted above, the Apache SIP Revision incorporates the Apache Permit Revision, which includes conditions implementing the Apache BART Alternative. In addition to the emission limitations for NO_X, PM_{10}, and SO_2 listed in Table 1 above, the Apache Permit Revision includes compliance dates, operation and maintenance requirements, and monitoring, recordkeeping, and reporting requirements. We propose to find that these provisions meet the requirements of 40 CFR 51.308(e)(2)(iii).

3. Demonstration That Emissions Reductions From Alternative Measure Will Be Surplus

Pursuant to 40 CFR 51.308(e)(2)(iv), the SIP must demonstrate that the emissions reductions resulting from the alternative measure will be surplus to those reductions resulting from measures adopted to meet requirements of the CAA as of the baseline date of the SIP. The baseline date for regional haze SIPs is 2002.[39] All of the emission reductions required by the Apache BART Alternative are surplus to reductions resulting from measures applicable to Apache as of 2002. Therefore, we propose to find that the Apache BART Alternative complies with 40 CFR 51.308(e)(2)(iv).

[35] 70 FR 39170. CALPUFF is the single source air quality model that is recommended in the BART Guidelines. Since CALPUFF was used for this analysis, the modeling results were post-processed in a manner consistent with the BART Guidelines.

[36] See 70 FR 39137.

[37] 40 CFR 51.308(e)(3)(ii).

[38] 40 CFR 51.308(e)(2)(iii).

[39] See Memorandum from Lydia Wegman and Peter Tsirigotis, 2002 Base Year Emission Inventory SIP Planning: 8-hr Ozone, $PM_{2.5}$, and Regional Haze Programs, November 8, 2002. *http://www.epa.gov/ttn/oarpg/t1/memoranda/2002bye-gm.pdf.*

In sum, we propose to find that the Apache BART Alternative meets all of the applicable requirements of 40 CFR 51.308(e)(2).

C. EPA's Evaluation of the ST1 Emission Limit Revision

In addition to the Apache BART Alternative, which applies to ST2 and ST3, the Apache SIP Revision includes a revision in the NO_X limit for ST1 when operating in combined-cycle mode with GT1. The SIP Revision would raise this limit from 0.056 lb/MMbtu to 0.10 lb/MMbtu based on a determination that the 0.056 lb/MMbtu limit is unachievable when ST1 is operated in combined cycle with GT1.[40] The revised limit of 0.10 is lb/MMbtu achievable when ST1 is operated in combined cycle with GT1 and is consistent with the use of natural gas, which ADEQ previously determined to constitute BART for this unit. Therefore, we propose to find that this revision to the emission limit for ST1, when operated in combined cycle mode with GT1, is consistent with the provisions of 40 CFR 51.308(e) requiring SIPs to contain emission limits representing BART.

D. EPA's Evaluation of Other Applicable Requirements

1. Enforceable Emission Limits

CAA section 110(a)(2)(A) requires SIPs to include enforceable emissions limitations necessary or appropriate to meet the applicable requirements of the Act. In addition, SIPs must contain regulatory requirements related to monitoring, recordkeeping, and reporting for applicable emissions limitations.[41] The Apache Permit Revision includes such enforceable emission limits, as well as associated monitoring, recordkeeping, and reporting requirements, for all units and pollutants. Therefore, we propose to find that the Apache SIP Revision meets the requirements of the CAA and EPA's implementing regulations for enforceable emission limitations.

2. Non-Interference With Applicable Requirements

The CAA requires that any revision to an implementation plan shall not be approved by the Administrator if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the Act.[42] EPA has promulgated health-based standards, known as the national ambient air quality standards (NAAQS), for seven pollutants, including SO_2, PM_{10}, NO_2 (a component of NO_X), and pollutants such as ozone and $PM_{2.5}$ that are formed in the atmosphere from reactions between NO_X and other pollutants. Using a process that considers air quality data and other factors, EPA designates areas as ''nonattainment'' if those areas cause or contribute to violations of a NAAQS. Reasonable further progress, as defined in section 171 of the CAA, is related to attainment and means annual incremental reductions in emissions of the relevant air pollutant for the purpose of ensuring attainment of the applicable NAAQS. Apache is located in north central Cochise County, Arizona, which is designated as Unclassifiable/Attainment for all of the NAAQS.[43] Therefore, we propose to find that a revision to the BART emission limits for NO_X will not interfere with attainment or reasonable further progress for any air quality standard.

The other requirements of the CAA that are applicable to Apache are:

- Standards of Performance for New Stationary Sources (NSPS), 40 CFR part 60, subpart D;
- National Emission Standards for Hazardous Air Pollutants (NESHAP), 40 CFR part 63, subpart UUUUU;
- Compliance Assurance Monitoring (CAM), 40 CFR part 64; and
- BART and other visibility protection requirements under CAA section 169A and 40 CFR Part 52, subpart P.

Today's proposed revisions would not affect the applicable requirements of the NESHAP, NSPS or CAM. Furthermore, as noted by ADEQ, a switch from coal to gas at ST2 will result in significant reductions in hazardous air pollutants.[44] Therefore, we propose to find that these revisions would not interfere with these requirements.

The proposed revisions would alter the applicable emission limits for NO_X, SO_2 and PM_{10} at Apache under CAA section 169A and 40 CFR 51.308(e). However, as explained above, the visibility improvement expected to result from the Apache BART Alternative for ST2 and ST3 is expected to result in greater visibility improvement on average across all affected Class I areas compared with BART. In addition, while there will be an increase in the NO_X limit for ST1 when operating in combined-cycle mode with GT1, from 0.056 lb/MMbtu to 0.10 lb/MMbtu, the addition of a lb/day limit will ensure that there will not be an increase in overall emissions from this unit.[45] Therefore, we propose to find that the Apache SIP Revision would not interfere with any applicable requirement of the CAA.

IV. EPA's Proposed Action

For the reasons described above, EPA proposes to approve the Apache SIP Revision and withdraw the provisions of the Arizona Regional Haze FIP that apply to Apache. We also propose to find that withdrawal of the FIP would constitute our action on AEPCO's Petition for Reconsideration of the FIP.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review 13563

This proposed action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). This proposed rule applies to only one facility and is therefore not a rule of general applicability.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. Burden is defined at 5 CFR 1320.3(b).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a

[40] See letter from Eric Hiser, Jorden, Bischoff and Hiser, to Eric Massey, ADEQ (November 25, 2013).

[41] See, e.g. CAA section 110(a)(2)(F) and 40 CFR 51.212(c).

[42] CAA Section 110(l), 42 U.S.C. 7410(l).

[43] Apache SIP Revision, pages 9–10, Table 1.5.

[44] Id. page 12.

[45] Id. page 11, footnote 9.

population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. Firms primarily engaged in the generation, transmission, and/or distribution of electric energy for sale are small if, including affiliates, the total electric output for the preceding fiscal year did not exceed 4 million megawatt hours. AEPCO sold under 3 million megawatt hours in 2013 and is therefore a small entity.[46]

After considering the economic impacts of this proposed action on small entities, I certify that this proposed action will not have a significant economic impact on a substantial number of small entities. The proposed approval of the SIP, if finalized, merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. See *Mid-Tex Electric Cooperative, Inc.* v. *FERC,* 773 F.2d 327 (D.C. Cir. 1985). The proposed FIP withdrawal would alleviate economic impacts on AEPCO and therefore would not have a significant adverse impact on any small entity.

D. Unfunded Mandates Reform Act (UMRA)

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538, requires Federal agencies, unless otherwise prohibited by law, to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Federal agencies must also develop a plan to provide notice to small governments that might be significantly or uniquely affected by any regulatory requirements. The plan must enable officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates and must inform, educate, and advise small governments on compliance with the regulatory requirements.

This proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for state, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, this rule is not subject to the requirements of sections 202 or 205 of UMRA.

This proposed rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This proposed rule does not impose regulatory requirements on any government entity.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or in the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed action from State and local officials.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13175 (65 FR 67249, November 9, 2000), EPA may not issue a regulation that has tribal implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by tribal governments, or EPA consults with tribal officials early in the process of developing the proposed regulation and develops a tribal summary impact statement.

This proposed rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments. Thus, Executive Order 13175 does not apply to this rule. EPA specifically solicits additional comment on this proposed rule from tribal officials.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. This proposed action addresses regional haze and visibility protection.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is exempt under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, 12(10)(15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by the VCS bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when the Agency decides not to use available and applicable VCS.

EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994), establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population, at a lower cost than the FIP.

[46] Arizona's G&T Cooperatives Annual Report (2013), page 17.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Visibility.

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

Dated: September 5, 2014.

Jared Blumenfeld,

Regional Administrator, EPA Region IX.

[FR Doc. 2014–22403 Filed 9–18–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2014–0198; FRL–9916–91–OAR]

RIN 2060–AS18

Protection of Stratospheric Ozone: Change of Listing Status for Certain Substitutes Under the Significant New Alternatives Policy Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking; extension of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is announcing that the period for providing public comments on the August 6, 2014, proposed ''Protection of Stratospheric Ozone: Change of Listing Status for Certain Substitutes Under the Significant New Alternatives Policy Program'' is being extended by 14 days.

DATES: *Comments.* The public comment period for the proposed rule published August 6, 2014, (79 FR 46126) is being extended by 14 days to October 20, 2014, in order to provide the public additional time to submit comments and supporting information.

ADDRESSES: *Comments.* Written comments on the proposed rule may be submitted to the EPA electronically, by mail, by facsimile or through hand delivery/courier. Please refer to the proposal (79 FR 46126) for the addresses and detailed instructions.

Docket. Publicly available documents relevant to this action are available for public inspection either electronically at *http://www.regulations.gov* or in hard copy at the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. The EPA has established the official public docket No. EPA–HQ–OAR–2014–0198.

Worldwide Web. The EPA Web site containing information for this rulemaking is: *http://www.epa.gov/ozone/snap/regulations.html.*

FOR FURTHER INFORMATION CONTACT: Rebecca von dem Hagen, Stratospheric Protection Division, Office of Atmospheric Programs, Mail Code 6205T, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number (202) 343–9445; fax number (202) 343–2338, email address: *vondemhagen.rebecca@epa.gov.* Notices and rulemakings under EPA's SNAP program are available on EPA's Stratospheric Ozone Web site at *http://www.epa.gov/ozone/snap/regulations.html.*

SUPPLEMENTARY INFORMATION:

Comment Period

The EPA is extending the public comment period for an additional 14 days. The public comment period will end on October 20, 2014, rather than October 6, 2014. This will provide the public additional time to review and comment on all of the information available, including the proposed rule and other materials in the docket.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Recycling, Reporting and recordkeeping requirements, Stratospheric ozone layer.

Dated: September 12, 2014.

Janet G. McCabe,

Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2014–22382 Filed 9–18–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 217

RIN 0750–AI37

Defense Federal Acquisition Regulation Supplement: Multiyear Contracts—Statutory References and Cancellation Ceiling Threshold (DFARS Case 2014–D019)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement to update the cancellation ceiling threshold for multiyear contracts and to correct statutory references.

DATES: *Comment date:* Comments on the proposed rule should be submitted in writing to the address shown below on or before November 18, 2014, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2014–D019, using any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''DFARS Case 2014–D019'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2014–D019.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2014–D019'' on your attached document.
- *Email: osd.dfars@mail.mil.* Include DFARS Case 2014–D019 in the subject line of the message.
- *Fax:* 571–372–6094.
- *Mail:* Defense Acquisition Regulations System, Attn: Ms. Jennifer Hawes, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Jennifer Hawes, Defense Acquisition Regulations System, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6115.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to revise the DFARS regarding multiyear contracts to correct statutory references and to update the cancellation ceiling threshold at DFARS 217.170(e)(1)(iv) and (e)(5) for consistency with the Federal Acquisition Regulation (FAR). Currently, DFARS 217.170(e)(1)(iv) requires DoD to provide notification to

the congressional defense committees at least 30 days before entering into a multiyear contract that includes a cancellation ceiling in excess of $100 million. DoD issued a final rule (75 FR 45072), effective October 1, 2010, to implement the requirements of section 807 of the National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108–375) by escalating acquisition-related thresholds throughout the DFARS; however, the increase to the cancellation ceiling threshold at DFARS 217.170(e)(1)(iv) and (e)(5) was not included in the rule, resulting in a conflict with the cancellation ceiling threshold of $125 million identified at FAR 17.108(b).

II. Discussion and Analysis

The rule proposes to amend DFARS 217.170(e)(1)(iv) and (e)(5), redesignating paragraph (e) as paragraph (d), and to increase the cancellation ceiling threshold from $100 million to $125 million to ensure consistency with the FAR. This rule also corrects references to 10 U.S.C. 2306b, 10 U.S.C. 2306c, and section 8008a of Public Law 105–56 throughout DFARS subpart 217.1 and makes the following corrections regarding multiyear contracts for supplies:

- The language at DFARS 217.170(b), under the ''General'' section, applies only to the acquisition of property in accordance with 10 U.S.C. 2306b. This language is moved to a new paragraph (j) under DFARS 217.172, Multiyear contracts for supplies.
- The current language at 217.172(c) states that multiyear contracts in amounts exceeding $500 million must be specifically authorized by law and that a multiyear supply contract may be authorized by an appropriations act or a law other than an appropriations act. However, the language at 10 U.S.C. 2306b(i)(3), which addresses the acquisition of property, states that a multiyear contract in excess of $500 million must be specifically authorized by law in an act other than an appropriations act. In addition, 10 U.S.C. 2306b(l)(3) states that the head of the agency may not initiate a multiyear procurement contract for any system (or component thereof) if the value of the multiyear contract would exceed $500 million unless authority for the contract is specifically provided in an appropriations act. The language at 217.172(c) is corrected and a new paragraph regarding multiyear procurement contracts is added.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 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 is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a 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.* However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

This rule proposes to amend the DFARS regarding multiyear contracts to ensure consistency with the FAR and the underlying statutes.

The objective of this rule is to increase the cancellation ceiling threshold at DFARS 217.170(e)(1)(iv) from $100 million to $125 million to ensure consistency with the threshold at FAR 17.108(b). In addition, this rule will correct references to 10 U.S.C. 2306b, 10 U.S.C. 2306c, and section 8008(a) of Public Law 105–56 throughout DFARS subpart 217.1 and make the following clarifications: (1) A multiyear contract for supplies in excess of $500 million must be specifically authorized by law in an act other than an appropriations act in accordance with 10 U.S.C. 2306b(i)(3); and, (2) a multiyear procurement contract for any system (or component thereof) with a value greater than $500 million must be specifically authorized in an appropriations act 10 U.S.C. 2306b(i)(3).

Small businesses will not be affected by this rule. This rule will impact procedures and authorities internal to the Government for multiyear contracts that require a cancellation ceiling up to $125 million or are valued in excess of $500 million and are for supplies.

This rule does not add any new information collection requirements. The rule does not duplicate, overlap, or conflict with any other Federal rules. No alternatives were identified that will accomplish the objectives of the rule.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2014–D019), in correspondence.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 217

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 217 is proposed to be amended as follows:

PART 217—SPECIAL CONTACTING METHODS

■ 1. The authority citation for 48 CFR part 217 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

217.103 [Amended]

■ 2. Amend section 217.103, in the definition for ''Military installation,'' by removing ''(10 U.S.C. 2801(c)(2))'' and adding ''(10 U.S.C. 2801(c)(4))'' in its place.

■ 3. Amend section 217.170 by—

■ a. Removing paragraph (b);

■ b. Redesignating paragraphs (c),(d), and (e) as paragraphs (b) (c), and (d), respectively;

■ c. Revising newly redesignated paragraphs (d)(1)(ii), (iii), and (iv); and

■ d. In newly redesignated paragraph (d)(5), removing ''$100 million'' and adding ''$125 million'' in its place.

The revisions read as follows:

217.170 General.

* * * * *

(d)(1) * * *

(ii) Employ economic order quantity procurement in excess of $20 million in any one year of the contract (see 10 U.S.C. 2306b(l)(1)(B)(i)(I) and section 8008(a) of Pub. L. 105–56 and similar sections in subsequent DoD appropriations acts);

(iii) Involve a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20 million in any one year (see 10 U.S.C. 2306b(l)(1)(B)(ii) and section 8008(a) of

Pub. L. 105–56 and similar sections in subsequent DoD appropriations acts); or

(iv) Include a cancellation ceiling in excess of $125 million (see 10 U.S.C. 2306c(d)(4) and 10 U.S.C. 2306b(g)(1)).

* * * * *

217.171 [Amended]

■ 4. Amend section 217.171 by—

■ a. In the introductory text of paragraph (a), removing ''(10 U.S.C. 2306c)'' and adding ''(10 U.S.C. 2306c(a))'' in its place;

■ b. In paragraph (a)(5)(iii), adding ''(10 U.S.C. 2306c(b))'' at the end of the sentence, before the period;

■ c. In paragraph (b)(3), adding ''(10 U.S.C. 2306c(c))'' at the end of the sentence, before the period;

■ d. In paragraph (c)(3), adding ''(10 U.S.C. 2306c(a))'' at the end of the sentence, before the period; and

■ e. In paragraph (d), removing ''(10 U.S.C. 2306(c))'' and adding ''(10 U.S.C. 2306c(d)(2))'' in its place.

■ 5. Amend section 217.172 by—

■ a. Revising paragraph (c);

■ b. Redesignating paragraphs (d) through (h) as paragraphs (e) through (i), respectively;

■ c. Adding a new paragraph (d);

■ d. In newly redesignated paragraph (f)(1), adding a parenthesis to close the parenthetical phrase ''(when entered into or extended)'' and removing ''(10 U.S.C. 2306b(1)(5))'' and adding ''(10 U.S.C. 2306b(l)(5))'' in its place.

■ e. In newly redesignated paragraph (f)(2), removing the parenthetical reference ''(10 U.S.C. 2306b(a)(l)(7))'';

■ f. In newly redesignated paragraph (g)(1), adding the parenthetical reference ''(10 U.S.C. 2306b(h)(1))'' before the semicolon;

■ g. In newly redesignated paragraph (g)(2), adding the parenthetical reference ''(10 U.S.C. 2306b(h)(2))'' at the end of the first sentence, before the period;

■ h. In newly redesignated paragraph (h)(2)(vii)—

■ i. Adding the parenthetical reference ''(10 U.S.C. 2306b(i)(1)(G))'' at the end of the first sentence before the period, and removing it from the end of the second sentence; and

■ ii. Removing ''USD(C)(P/B)'' and adding ''OUSD(C)(P/B)'' in its place.

■ i. In newly redesignated paragraph (h)(2)(viii) introductory text, removing ''USD(C)(P/B)'' and adding ''OUSD(C)(P/B)'' in its place.

■ j. In newly redesignated paragraph (h)(8) introductory text, removing the parenthetical reference ''(10 U.S.C. 2306b(i)(2))''; and

■ k. Adding a new paragraph (j).

The revisions and additions read as follows:

217.172 Multiyear contracts for supplies.

* * * * *

(c) Multiyear contracts in amounts exceeding $500 million must be specifically authorized by law in an act other than an appropriations act (10 U.S.C. 2306b(i)(3)).

(d) The head of an agency may not initiate a multiyear procurement contract for any system (or component thereof) if the value of the multiyear contract would exceed $500 million unless authority for the contract is specifically provided in an appropriations act (10 U.S.C. 2306b(l)(3)).

* * * * *

(j) Any requests for increased funding or reprogramming for procurement of a major system under a multiyear contract shall be accompanied by an explanation of how the request for increased funding affects the determinations made by the Secretary of Defense under 217.172(g)(2) (10 U.S.C. 2306b(m)).

[FR Doc. 2014–22368 Filed 9–18–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 225

RIN 0750–AI36

Defense Federal Acquisition Regulation Supplement: Domestic Source Restrictions on Certain Naval Vessel Components (DFARS Case 2014–D022)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement the statutory domestic source restrictions on acquisition of certain naval vessel components.

DATES: *Comment date:* Comments on the proposed rule should be submitted in writing to the address shown below on or before November 18, 2014, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2014–D022, using any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''DFARS Case 2014–D022'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2014–D022.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2014–D022'' on your attached document.
- *Email: osd.dfars@mail.mil.* Include DFARS Case 2014–D022 in the subject line of the message.
- *Fax:* 571–372–6094.
- *Mail:* Defense Acquisition Regulations System, Attn: Amy G. Williams, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Amy G. Williams, Defense Acquisition Regulations System, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to revise DFARS 225.7010 to implement the domestic source restrictions in 10 U.S.C. 2534 on gyrocompasses, electronic navigation chart systems, steering controls, pumps, propulsion and machinery control systems, and totally enclosed lifeboats, to the extent they are unique to marine applications.

These restrictions are currently implemented in the acquisition regulations of the Defense Logistics Agency and the Department of the Navy, the two DoD components that acquire such naval vessel components. The restrictions are now being incorporated into the DFARS because they impact more than one DoD component.

10 U.S.C. 2534 prohibits acquisition of these naval vessel components, unless they are manufactured in the United States or Canada, except for acquisitions that do not exceed the simplified acquisition threshold or acquisitions of spare or repair parts needed to support components for naval vessels manufactured outside the United States.

The waiver criteria at DFARS 225.7008(a) apply to this restriction. The Under Secretary of Defense

(Acquisition, Technology, and Logistics) has waived this restriction for certain defense items manufactured in the United Kingdom, including these naval vessel components (see 79 FR 11770, dated March 3, 2014).

10 U.S.C. 2534(h) prohibits the use of a contract clause or certification to implement this restriction.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 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 is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

DoD does not expect this rule to have a 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.,* because this law has been implemented in the Defense Logistics Agency and Department of Navy regulations for many years, and moving the regulations to the DFARS will have no impact on the public. Therefore, an initial regulatory flexibility analysis has not been performed. DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 610 (DFARS Case 2014–D022), in correspondence.

IV. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 225

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 225 is proposed to be amended as follows:

PART 225—FOREIGN ACQUISITION

■ 1. The authority citation for 48 CFR part 225 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Amend section 225.7008 by revising paragraph (b) to read as follows:

225.7008 Waiver of restrictions of 10 U.S.C. 2534.

* * * * *

(b) In accordance with the provisions of paragraphs (a)(1)(i) through (iii) of this section, the USD(AT&L) has waived the restrictions of 10 U.S.C. 2534(a) for certain items manufactured in the United Kingdom, including air circuit breakers for naval vessels (see 225.7006) and the naval vessel components listed at 225.7010–1.

■ 3. Add section 225.7010 to read as follows:

225.7010 Restriction on certain naval vessel components.

■ 4. Add sections 225.7010–1, 225.7010–2, 225.7010–3, and 225.7010–4 to read as follows:

225.7010–1 Restriction.

In accordance with 10 U.S.C. 2534, do not acquire the following components of naval vessels, to the extent they are unique to marine applications, unless manufactured in the United States or Canada:

(a) Gyrocompasses.

(b) Electronic navigation chart systems.

(c) Steering controls.

(d) Pumps.

(e) Propulsion and machinery control systems.

(f) Totally enclosed lifeboats.

225.7010–2 Exceptions.

This restriction does not apply to—

(a) Contracts of subcontracts that do not exceed the simplified acquisition threshold; or

(b) Acquisition of spare or repair parts needed to support components for naval vessels manufactured outside the United States. Support includes the purchase of spare gyrocompasses, electronic navigation chart systems, steering controls, pumps, propulsion and machinery control systems, or totally enclosed lifeboats, when those from alternate sources are not interchangeable.

225.7010–3 Waiver.

(a) The waiver criteria at 225.7008(a) apply to this restriction.

(b) The Under Secretary of Defense (Acquisition, Technology, and Logistics) has waived the restriction of 10 U.S.C. 2534 for certain items manufactured in the United Kingdom, including the items listed in section 225.7010–1. See 225.7008.

225.7010–4 Implementation.

(a) 10 U.S.C. 2534(h) prohibits the use of contract clauses or certifications to implement this restriction.

(b) Agencies shall accomplish implementation of this restriction through use of management and oversight techniques that achieve the objectives of this section without imposing a significant management burden on the Government or the contractor involved.

[FR Doc. 2014–22369 Filed 9–18–14; 8:45 am]

BILLING CODE 5001–06–P

Notices

Federal Register

Vol. 79, No. 182

Friday, September 19, 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

Submission for OMB Review; Comment Request

September 15, 2014.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (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 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 regarding this information collection received by October 20, 2014 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal Plant and Health Inspection Service

Title: Importation of Tomatoes from Spain, Chile, France, Morocco, and Western Sahara.

OMB Control Number: 0579–0131.

Summary of Collection: Under the Plant Protection Act (PPA) (7 U.S.C. 7701—*et.seq*), the Secretary of Agriculture is authorized to carry out operations or measure to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests new to the United States or not known to be widely distributed throughout the United States. Regulations authorized by the PPA concerning the importation of fruits and vegetables into the United States from certain parts of the word are contained in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56–28, referred to as the regulations). These regulations allow tomatoes from Spain, Chile, France, Morocco, and Western Sahara to be imported into the United States (subject to certain conditions). This action is necessary in order to protect the ripening, or ripe tomatoes from infestation by the Mediterranean fruit fly (Medfly).

Need and Use of the Information: The Animal and Plant Health Inspection Service (APHIS) will collect information using the phytosanitary certificate certifying that the tomatoes were grown in registered greenhouses in a specified area of the exporting country. APHIS will also use marking of boxes to identify the packing facility, treatment facility registration, trust fund agreement, production site registration, and quality control program. APHIS uses the collected information to determine the pest condition of the shipment at the time of inspection in the foreign country. Without this information, all shipments would need to be inspected very thoroughly, thereby requiring considerably more time. This would slow the clearance of international shipments.

Description of Respondents: Business or other for profit; Federal Government.

Number of Respondents: 10.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 1,350.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–22303 Filed 9–18–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2014–0030]

Notice of Request for Renewal of an Information Collection: Salmonella Initiative Program (SIP)

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Food Safety and Inspection Service's intention to renew an information collection related to the Salmonella Initiative Program (SIP). FSIS is requesting the renewal because the current OMB approval will expire on January 31, 2015.

DATES: Comments on this notice must be received on or before November 18, 2014.

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

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

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2014–0030. Comments received in response to this docket will be made

available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E Street SW., Room 8–164, Washington, DC 20250–3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW., Room 6067, South Building, Washington, DC 20250; (202) 690–6510.

SUPPLEMENTARY INFORMATION:

Title: Salmonella Initiative Program.

OMB Number: 0583–0154.

Expiration Date of Approval: 01/31/2015.

Type of Request: Renewal of a currently approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18, 2.53) as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). FSIS protects the public by verifying that meat, poultry, and egg products are safe, wholesome, not adulterated, and correctly labeled and packaged.

FSIS is requesting a renewal of a currently approved information collection addressing paperwork and recordkeeping requirements relating to the SIP. SIP offers incentives to meat and poultry slaughter establishments to control *Salmonella* in their operations. SIP does this by granting waivers of certain regulatory requirements with the condition that establishments test for *Salmonella, Campylobacter* (if applicable), and generic *Escherichia coli* or other indicator organisms and share all sample results with FSIS. SIP benefits public health because it encourages establishments to test for microbial pathogens, which is a key feature of effective process control.

In return for meeting the conditions of SIP, the Agency grants establishments appropriate waivers of certain regulatory requirements, based upon establishment proposals and documentation, under FSIS regulations at 9 CFR 303.1(h) and 381.3(b). These regulations specifically provide for the Administrator to waive for limited periods any provisions of the regulations to permit experimentation so that new procedures, equipment, or processing techniques may be tested to facilitate definite improvements. Establishments participating in SIP agree to the conditions of SIP regarding pathogen testing and sharing of test result data with FSIS.

The previous OMB approval for this collection was for 206,000 burden hours; however, the Agency will eliminate a substantial number of current SIP approvals with implementation of the New Poultry Inspection System. FSIS is asking OMB to approve a renewal of this collection with a reduction in burden of 152,224 hours.

FSIS has made the following estimates based upon an information collection assessment:

Estimate of Burden: FSIS estimates that it will take respondents an average of 572 hours per response.

Respondents: Official slaughter establishments that are under a waiver.

Estimated No. of Respondents: 94.

Estimated No. of Annual Responses per Respondent: 650.

Estimated Total Annual Burden on Respondents: 53,776 hours.

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.

Copies of this information collection assessment can be obtained from Gina Kouba, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 1400 Independence SW., Room 6077, South Building, Washington, DC 20250, (202) 690–6510.

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 collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

Additional Public Notification

FSIS will announce this notice online through the FSIS Web page located at *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/federal-register.*

FSIS will also 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 constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail 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/wps/portal/fsis/programs-and-services/email-subscription-service.* 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.

USDA Nondiscrimination Statement

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

Done at Washington, DC, on September 16, 2014.

Alfred V. Almanza,

Administrator.

[FR Doc. 2014–22441 Filed 9–18–14; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Economic Development Administration.

Title: Revolving Loan Fund Reporting and Compliance Requirements.

OMB Control Number: 0610–0095.

Form Number(s): ED–209 and ED–209–I.

Type of Request: Regular submission (extension of a currently approved information collection).

Number of Respondents: 1,460.

Average Hours per Response: ED–209, 3 hours; and ED–209–I, 1 hour.

Burden Hours: 3,796.

Needs and Uses: The collection of information is necessary pursuant to Public Law 42 U.S.C. 3149. Specifically, the purpose of the data collection is to enable monitoring, evaluation, and use of public funds in accordance with fiduciary responsibilities of economic development loans made to public and non-profit organizations through EDA's Revolving Loan Fund (RLF) program. Under the RLF program, EDA's regional offices award competitive grants to units of state and local government, institutions of higher education, public or private non-profit organizations, EDA-approved economic development district organizations, and Indian Tribes to establish RLFs. Following grant award, an RLF grantee disburses money from the RLF to make loans at interest rates that are at or below the current market rate to small businesses or to businesses that cannot otherwise borrow capital. The grantee uses a portion of interest earned to pay administrative expenses and adds the remaining principal and interest repayments to the RLF's capital base to make new loans. By law, EDA must exercise fiduciary responsibility over its RLF portfolio in perpetuity—a significant challenge since many RLF grants date back to 1979.

EDA's regulations therefore require EDA RLF grantees to submit an ED–209, Semi-Annual Report to EDA, every six months. In addition, EDA RLF grantees must submit an ED–209I, RLF Income and Expense Statement, if either of the following conditions applies to their RLF: (a) Total administrative expenses for the 6-month period exceed $100,000, or (b) administrative expenses for the 6-month period exceed 50 percent of RLF income for the 6-month period.

Affected Public: Not for-profit institutions; state or local governments.

Frequency: ED–209, semi-annually (6 Months); the ED–209–I, on occasion as explained above.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: September 16, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–22371 Filed 9–18–14; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 et seq.), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[09/10/2014 through 09/15/2014]

Firm name	Firm address	Date accepted for investigation	Product(s)
Naknek Family Fisheries, LLC.	932 N. Alder Ave., Tucson, AZ 85705	9/10/2014	The firm harvested, packages, and ships salmon and live salmon.
L.A.Y. & Company. Inc.	620 Parkway Drive, West Branch, MI 48661.	9/10/2014	The firm manufactures precision turned components for the aerospace industry.
Scott System, Inc	10777 East 45th Avenue, Denver, CO 80239.	9/12/2014	The firm manufactures plastic molds used to imprint concrete.
Alpen High Performance Products, LLC.	6121 Clermont Street, Commerce City, CO 80022.	9/12/2014	The firm manufacturers residential and commercial fiberglass windows and architectural glass products.
Beverly Tiaga dba Golden Eagle Manufacturing.	414 Borrego Court, San Dimas, CA 91773	9/15/2014	The firm manufactures aftermarket automotive parts.
Signature Plastics, LLC.	7837 Custer School Rd, Custer, WA 98240.	9/15/2014	The firm manufactures articles of plastic; injection molded plastic parts.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE—Continued

[09/10/2014 through 09/15/2014]

Firm name	Firm address	Date accepted for investigation	Product(s)
Glide Bikes, Inc	4510 Northchase Parkway NE., Unit G, Wilmington, NC 28405.	9/15/2014	The firm produces balance bikes for all ages and abilities.
Legacy Electronics, Inc.	1220 North Dakota Street, Canton, SD 57013.	9/15/2014	The firm manufactures high density memory modules, printed circuit boards, solid state drives and other computer products.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: September 15, 2014.

Michael DeVillo,

Eligibility Examiner.

[FR Doc. 2014–22354 Filed 9–18–14; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–94–2014]

Approval of Subzone Status; LEEVAC Shipyards, LLC; Jennings, Louisiana

On July 16, 2014, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Lake Charles Harbor & Terminal District, grantee of FTZ 87, requesting subzone status subject to the existing activation limit of FTZ 87 on behalf of LEEVAC Shipyards, LLC, in Jennings, Louisiana.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (79 FR 42501, 7–22–2014). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval.

Pursuant to the authority delegated to the FTZ Board's Executive Secretary (15 CFR 400.36(f)), the application to establish Subzone 87D is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 87's 2,000-acre activation limit.

Dated: September 15, 2014.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2014–22422 Filed 9–18–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–928]

Uncovered Innerspring Units From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On March 17, 2014, the Department of Commerce (''the Department'') published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty order on uncovered innerspring units (''innersprings'') from the People's Republic of China (''PRC'') covering the period February 1, 2012, through January 31, 2013.[1] The Department gave interested parties an opportunity to comment on the *Preliminary Results.* Based on our analysis of these comments, our final determination remains unchanged from the *Preliminary Results.*

DATES: *Effective Date:* September 19, 2014

FOR FURTHER INFORMATION CONTACT: Steven Hampton, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0116.

SUPPLEMENTARY INFORMATION:

Background

On March 17, 2014, the Department published the *Preliminary Results* in the **Federal Register**, and provided interested parties an opportunity to comment.[2] On April 16, 2014, the Department received a case brief from Leggett and Platt, Inc. (''Petitioner'').[3] No other interested party filed case or rebuttal briefs.

Scope of the Order

The merchandise subject to the order is uncovered innerspring units.[4] The product is currently classified under subheading 9404.29.9010 and has also been classified under subheadings 9404.10.0000, 7326.20.0070, 7320.20.5010, 7320.90.5010, or 7326.20.0071 of the Harmonized Tariff Schedule of the United States (''HTSUS''). The HTSUS subheadings are provided for convenience and customs purposes only; the written product description of the scope of the order is dispositive.

Analysis of Comments Received

All issues raised in the case brief by Petitioner are addressed in the Issues and Decision Memorandum, which is incorporated herein by reference. A list of the issues which parties raised, and to which we respond in the Issues and Decision Memorandum, is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public

[1] *See Uncovered Innerspring Units From the People's Republic of China: Antidumping Duty Administrative Review; 2012–2013,* 79 FR 14666 (March 17, 2014) (''*Preliminary Results*'').

[2] *Id.,* 79 FR 14667.

[3] *See* Fourth Administrative Review of the Antidumping Duty Order on Uncovered Innerspring Units From the People's Republic of China: Case Brief, dated April 16, 2014.

[4] *See* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled ''Uncovered Innerspring Units From the People's Republic of China: Issues and Decision Memorandum for the Final Results of the 2012–2013 Administrative Review,'' which is dated concurrently with and hereby adopted by this notice (''Issues and Decision Memorandum'') for a complete description of the Scope of the Order.

document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available to registered users at *http://iaaccess.trade.gov,* and it 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 Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic versions of the Issues Decision Memorandum are identical in content.

Use of Facts Available and Adverse Facts Available

As stated in the *Preliminary Results,* Goldon Bedding Manufacturing (M) Sdn Bhd (''Goldon'') and Ta Cheng Coconut Knitting Company Ltd. (''Ta Cheng'') each failed to cooperate to the best of their ability in providing requested information because they withheld requested information, failed to provide the information in a timely manner and in the form requested, and significantly impeded this proceeding.[5] Accordingly, pursuant to sections 776(a)(2)(A), (B), and (C) and section 776(b) of the Tariff Act of 1930, as amended (''the Act''), we find it appropriate to assign to Goldon and Ta Cheng dumping margins of 234.51 percent based on total adverse facts available (''AFA''). Because Goldon is located in Malaysia and Ta Cheng is located in Taiwan, we are treating them as third-country resellers. Accordingly, this rate only applies to Goldon's and Ta Cheng's PRC-origin merchandise.[6]

Final Results of Review

The weighted-average dumping margins for the period February 1, 2012, through January 31, 2013, are as follows:

Exporter	Weighted-average dumping margin (percent)
Goldon Bedding Manufacturing (M) Sdn Bhd	234.51
Ta Cheng Coconut Knitting Company Ltd.	234.51

Assessment

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review in the **Federal Register**.

For Goldon and Ta Cheng, the Department will instruct CBP to assess antidumping duties on their entries of subject merchandise at the rate of 234.51 percent.

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 from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be 234.51 percent for their entries of subject (*i.e.,* PRC-origin PSF) merchandise; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have a separate rate, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be that established for the PRC-wide entity of 234.51 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter with the subject merchandise. The deposit requirements, when imposed, shall remain in effect until further notice.

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period of review. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Orders

In accordance with 19 CFR 351.305(a)(3), this notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing this administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: September 12, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Final Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Discussion of the Issue
5. Recommendation

[FR Doc. 2014–22419 Filed 9–18–14; 8:45 am]

BILLING CODE 3510–DS–P

[5] *See Preliminary Results,* and accompanying Preliminary Decision Memorandum at 5–6.

[6] *See* Issues and Decision Memorandum for further discussion of this issue.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–818]

Certain Pasta From Italy: Notice of Final Results of Antidumping Duty Changed Circumstances Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On May 16, 2014, the Department of Commerce (''Department'') published the preliminary results of the changed circumstances review of the antidumping duty order on certain pasta from Italy and preliminarily determined that Delverde Industrie Ailimentari S.p.A. (''Delverde'') was not the successor-in-interest to Del Verde S.p.A., a company excluded from the order.[1] We received comments from interested parties. Based on our analysis, for the final results, the Department continues to find that Delverde is not the successor-in-interest to Del Verde S.p.A.

[1] *See Certain Pasta From Italy: Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review,* 79 FR 28481 (May 16, 2014) (''*Preliminary Results*'').

DATES: *Effective Date:* September 19, 2014.

FOR FURTHER INFORMATION CONTACT: James Terpstra, Office III, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3965.

Background

On July 24, 1996, the Department published in the **Federal Register** the antidumping duty order on pasta from Italy.[2] Pursuant to a decision by the Court of International Trade, the Department determined that Del Verde S.p.A. had a *de minimis* dumping margin and should be excluded from the order.[3]

On July 18, 2012, Delverde requested a changed circumstances review. On August 10, 2012, the Department initiated this review.[4] On May 16, 2014, the Department published in the **Federal Register** a preliminary finding that Delverde was not the successor-in-interest to Del Verde S.p.A.[5]

On May 27, 2014, Delverde submitted a case brief.[6] On June 9, 2014, Petitioners submitted a rebuttal brief.[7] The Department extended the deadline for the final results until August 14, 2014 on June 23, 2014.[8]

Scope of the Order

Imports covered by this order are shipments of certain non-egg dry pasta in packages of five pounds four ounces or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastasis, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope of this order are refrigerated, frozen, or canned pastas, as well all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are certified by a European Union (''EU'') authorized body and accompanied by a National Organic Program import certificate for organic products.[9] Effective July 1, 2008, gluten free pasta is also excluded from this order.[10]

The merchandise subject to this order is currently classifiable under items 1902.19.20 and 1901.90.9095 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this changed circumstances review are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. A list of the issues which parties have raised, and to which we have responded in the Issues and Decision Memorandum, is attached to this notice as an Appendix.

The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). 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 Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

Final Results of Changed Circumstances Review

For the *Preliminary Results,* the Department found that Delverde was not the successor-in-interest to Del Verde S.p.A. based on aspects of the bankruptcy of the company, changes in management, changes in supplier relationships, and changes in production facilities.[11] Based on our analysis of the comments received, the Department continues to find that Delverde is not the successor-in-interest to Del Verde S.p.A. and is not excluded from the order.[12] This determination will apply to all entries of the subject merchandise entered or withdrawn from warehouse, for consumption on or after the date of the publication of the final results.

Notification

This notice serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.306. Timely written notification of the 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 sanctionable violation.

This notice is published in accordance with sections 751(b)(1) and 777(i) of the Act and 19 CFR 351.216 and 351.221.

Date: September 12 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

APPENDIX

Summary
Background
Discussion of Interested Party Comments
Comment 1: The Purpose of the Changed Circumstances Review
Comment 2: The Significance of the Bankruptcy
Comment 3: Whether the Factors Relied on by the Department Support its Decision
Recommendation

[FR Doc. 2014–22410 Filed 9–18–14; 8:45 am]

BILLING CODE 3510–DS–P

[2] *See Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta From Italy,* 61 FR 38547 (July 24, 1996); *see also Notice of Second Amendment to the Final Determination and Antidumping Duty Order: Certain Pasta From Italy;* 61 FR 42231 (August 14, 1996).

[3] *See Notice of Amendment of Final Determination of Sales at Less Than Fair Value Pursuant to Court Decision and Revocation in Part: Certain Pasta From Italy,* 66 FR 65889 (December 21, 2001).

[4] *See Certain Pasta From Italy: Notice of Initiation of the Antidumping Duty Changed Circumstances Review,* 77 FR 47816 (May 10, 2012) (''*Initiation Notice*'').

[5] *See Preliminary Results.*

[6] *See* Delverde's May 27, 2014 Case Brief.

[7] *See* Petitioner's June 9, 2014 Rebuttal Brief.

[8] *See* June 23, 2014 Letter to Delverde.

[9] On October 10, 2012, the Department revised the ''Scope of the Order'' to recognize the EU-authorized Italian agents for purposes of the antidumping and countervailing duty orders on pasta from Italy. *See* Memorandum from Yasmin Nair to Susan Kuhbach, titled ''Recognition of EU Organic Certifying Agents for Certifying Organic Pasta From Italy,'' dated October 10, 2012, which is on file in the Department's Central Records Unit.

[10] *See Certain Pasta From Italy: Notice of Final Results of Antidumping Duty Changed Circumstances Review and Revocation, in Part,* 74 FR 41120 (August 14, 2009).

[11] *See Preliminary Results.*

[12] *See Certain Pasta From Italy: Notice of Final Results of 16th Antidumping Duty Administrative Review; 2001–2012,* 79 FR 11409 (February 28, 2014), in which Delverde was assigned a company-specific cash deposit rate of 13.09 percent.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–934]

1-Hydroxyethylidene-1, 1-Diphosphonic Acid From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On March 25, 2014, the Department of Commerce (''the Department'') published its *Preliminary Results* of the 2012–2013 administrative review of the antidumping duty order on 1-Hydroxyethylidene-1, 1-Diphosphonic Acid (''HEDP'') from the People's Republic of China (''the PRC'').[1] This review covers one company, Shandong Taihe Chemicals Co., Ltd. (''STCC''). The period of review (''POR'') is April 1, 2012, through March 31, 2013. We invited interested parties to comment on our *Preliminary Results.* Based on our analysis of the comments received, we made a change to the margin calculations for these final results. The final dumping margin is listed below in the ''Final Results'' section of this notice.

DATES: *Effective Date:* September 19, 2014.

FOR FURTHER INFORMATION CONTACT: Jamie Blair-Walker or Robert Bolling, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2615 or (202) 482–3434, respectively.

Background

On March 25, 2014, the Department published its *Preliminary Results* and invited interested parties to comment. STCC filed a case brief; no other interested party commented.[2]

Scope of the Order

The merchandise subject to the order is 1-hydroxyethylidene-1, 1-diphosphonic acid. The merchandise subject to the order is currently classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') at subheading 2931.00.9043. It may also enter under HTSUS subheading 2811.19.6090. While HTSUS subheadings are provided for convenience and customs purposes only, the full written description of the scope of the order is dispositive.[3]

Analysis of Comments Received

All issues raised in STCC's case brief are addressed in the Issues and Decision Memorandum. A list of the issues that STCC raised and to which we responded in the Issues and Decision Memorandum follows as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on a review of the record and comments received from STCC regarding the *Preliminary Results,* we made revisions to the margin calculation for STCC.[4]

Final Results

We determine that the following weighted-average dumping margin exists for the POR:

Exporter	Weighted-average dumping margin (percent)
Shandong Taihe Chemicals Co., Ltd.	76.94

Assessment Rates

The Department will determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of these final results of this review. Where an assessment rate is above *de minimis* (*de minimis* being less than 0.5 percent in a review), the Department will instruct CBP to assess duties on all entries of subject merchandise for that importer during the period from April 1, 2012, through March 31, 2013. In accordance with 19 CFR 351.212(b)(1), we are calculating importer- (or customer-) specific assessment rates for the merchandise subject to this review. For any individually examined respondent whose weighted-average dumping margin is above *de minimis* (*i.e.,* 0.50 percent), the Department will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales and the total entered value of sales.[5] The Department will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate is above *de minimis.* Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

The Department announced a refinement to its assessment practice in non-market economy (''NME'') cases.[6] Pursuant to this refinement in practice, for merchandise that was not reported in the U.S. sales databases submitted by an exporter individually examined during this review, but that entered under the case number of that exporter (*i.e.,* at the individually-examined exporter's cash deposit rate), the Department will instruct CBP to liquidate such entries at the PRC-wide rate. Additionally, pursuant to this refinement, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number will be liquidated at the PRC-wide rate.

Cash Deposit Requirements

The cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise

[1] *See 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2012–2013,* 79 FR 16280 (March 25, 2014) (''*Preliminary Results*'').

[2] *See* the memorandum entitled ''Issues and Decision Memorandum for the Final Results of the 2012–2013 Antidumping Duty Administrative Review of 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China,'' dated concurrently with and hereby adopted by this notice (Issues and Decision Memorandum).

[3] For a complete description of the merchandise subject to this order, *see* the Issues and Decision Memorandum.

[4] *See* Issues and Decision Memorandum.

[5] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

[6] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011), for a full discussion of this practice.

from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the of the Tariff Act of 1930, as amended (the ''Act''): (1) For STCC, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled a separate rate, the cash deposit rate will be that for the PRC-wide entity established in the final determination of the less than fair value investigation (*i.e.,* 72.42 percent); and (5) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

We intend to disclose the calculations performed regarding these final results within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: September 12, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—Issues and Decision Memorandum

Summary
Background
Scope of the Order
Discussion of the Issues
Comment 1: Surrogate Value for HEDP
Comment 2: Surrogate Value for Phosphorus Trichloride
Comment 3: Surrogate Value for Plastic Bulk Containers
Recommendation

[FR Doc. 2014–22416 Filed 9–18–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Weather Modification Activities Reports.

OMB Control Number: 0648–0025.

Form Number(s): NOAA 17–4 and 17–4A.

Type of Request: Regular submission (extension of a current information collection).

Number of Respondents: 55.

Average Hours per Response: Initial report and interim/final report, both 30 minutes.

Burden Hours: 55.

Needs and Uses: This request is for extension of a current information collection.

Section 6(b) of Public Law 92–205 requires that persons who engage in weather modification activities (e.g., cloud seeding) provide reports prior to and after the activity. They are also required to maintain certain records. The requirements are detailed in 15 CFR part 908. NOAA uses the data for scientific research, historical statistics, international reports and other purposes.

Affected Public: Individuals or households; business or other for-profit organizations.

Frequency: Annually and on occasion.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: September 15, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–22312 Filed 9–18–14; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD506

Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold public meetings.

DATES: The meetings will be held Tuesday, October 7, 2014 through Thursday, October 9, 2014. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the Courtyard Marriott Downtown Philadelphia, 21 N. Juniper St., Philadelphia, PA 19107; telephone: (215) 496–3200.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D. Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION:

Tuesday, October 7, 2014

1 p.m. until 3:30 p.m.—The Executive Committee will meet.

3:30 p.m.—The Council will convene.

3:30 p.m. until 5:30 p.m.—The Surfclam and Ocean Quahog Committee

will meet as a Committee of the Whole to discuss the Surfclam and Ocean Quahog Cost Recovery Amendment and the Atlantic Surfclam and Ocean Quahog Fishery Information Collection.

Wednesday, October 8, 2014

9 a.m.—The Council will convene.

9 a.m. until 11 a.m.—The Forage Fish White Paper will be discussed.

11 a.m. until 12 noon—The River Herring and Shad Committee will meet as a Committee of the Whole.

1 p.m. until 2 p.m.—The Council will discuss the Omnibus Observer Funding Amendment.

2 p.m. until 2:30 p.m.—The Vessel Baseline Amendment will be discussed.

2:30 p.m. until 4:30 p.m.—Spiny Dogfish Specifications will be discussed.

4:30 p.m. until 5:30 p.m.—Amendment 9 to the Consolidated Highly Migratory Species Fishery Management Plan will be discussed.

Thursday, October 9, 2014

9 a.m.—The Council will convene.

9 a.m. until 9:30 a.m.—The Council will receive an update on Regional Ocean Planning.

9:30 a.m. until 1 p.m.—The Council will hold its regular Business Session to receive Organizational Reports, the New England and South Atlantic Liaison Reports, the Executive Director's Report, the Science Report, Committee Reports, and conduct any continuing and/or new business.

Agenda items by day for the Council's Committees and the Council itself are:

On Tuesday, October 7—The Executive Committee will review the 2014 Implementation Plan, review the 2014–18 Strategic Plan, and discuss and adopt 2015 priorities. The Council will approve the Surfclam and Ocean Quahog Cost Recovery Amendment Public Hearing Document and discuss the National Marine Fisheries Service proposed rule to collect information from the individual transferable quota business holders in the Atlantic Surfclam and Ocean Quahog fishery.

On Wednesday, October 8—The Council will review the MAFMC white paper on forage fish. The River Herring and Shad Committee will meet as a Committee of the Whole to discuss potential impacts of lower mid-water trawl observer coverage levels on the river herring and shad cap, review progress on the committee's terms of reference, and receive an update on voluntary river herring and shad avoidance programs. The Council will review progress on alternative development and analysis for the Omnibus Observer Funding Amendment and provide direction to staff as appropriate. The Council will review public comments on the Vessel Baseline Draft Amendment and take final Council action to adopt the amendment for Secretarial review and implementation. After considering input from the Scientific and Statistical Committee, the Spiny Dogfish Monitoring Committee, and the Spiny Dogfish Advisory Panel, the Council may adopt modified 2015 Spiny Dogfish harvest levels and/or management measures if appropriate. The Council will review and comment on the proposed rule for Amendment 9 to the Consolidated Highly Migratory Species (HMS) Fishery Management Plan and receive an update on other HMS issues.

On Thursday, October 9—The Council will receive an update on Regional Ocean Planning. The Council will hold its regular Business Session to receive Organizational Reports, the New England and South Atlantic Council Liaison Reports, the Executive Director's Report, the Science Report, Committee Reports, and conduct any continuing and/or new business. Webinar access is available during the Council meeting and access details will be available at *www.mafmc.org.*

Although non-emergency issues not contained in this agenda may come before these groups for discussion, those issues may not be the subject of formal action during these meetings. 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 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 aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: September 16, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–22376 Filed 9–18–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD485

Fisheries of the South Atlantic, Gulf of Mexico, and Caribbean; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of a public meeting of the SEDAR Steering Committee.

SUMMARY: The SEDAR Steering Committee will meet to discuss the SEDAR process and assessment schedule. See **SUPPLEMENTARY INFORMATION.**

DATES: The SEDAR Steering Committee will meet from 1 p.m. Monday, October 6, 2014, until 5 p.m. Tuesday, October 7, 2014.

ADDRESSES: The Steering Committee meeting will be held at the Crowne Plaza, 4381 Tanger Outlet Boulevard, North Charleston, SC 29418; telephone: (843) 744–4422.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: John Carmichael, SEDAR Program Manager, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; telephone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *john.carmichael@safmc.net.*

SUPPLEMENTARY INFORMATION: The items of discussion are as follows: *SEDAR Steering Committee Agenda, Monday, October 6, 2014, 1 p.m.–5 p.m. and Tuesday, October 7, 2013, 8:30 a.m.–5 p.m.*

1. Review progress of ongoing assessment projects.

2. Address the SEDAR assessment schedule: Review 2015 schedules, determine 2016 priorities and identify projects for 2017–18.

3. Receive a report on the SEFSC Assessment Program Review and consider how review findings may impact the SEDAR process.

4. Review the SEDAR process and consider modifications and improvements.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically

identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 10 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: September 16, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–22377 Filed 9–18–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD502

North 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 North Pacific Fishery Management Council (Council) and its advisory committees will hold public meetings, October 6–14, 2014.

DATES: The Council will begin its plenary session at 8 a.m. on Wednesday October 8, continuing through Tuesday October 14, 2014. The Scientific Statistical Committee (SSC) will begin at 8 a.m. on Monday October 6 and continue through Wednesday October 8, 2014. The Council's Advisory Panel (AP) will begin at 8 a.m. on Tuesday October 7, and continue through Saturday October 11, 2014. The Enforcement Committee will meet from 1 p.m. to 4 p.m. on Tuesday October 7, 2014. All meetings are open to the public, except executive sessions.

ADDRESSES: The meetings will be held at the Anchorage Hilton Hotel, 500 West 3rd, Anchorage, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Avenue, Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: David Witherell, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION:

Council Plenary Session: The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

1. Executive Director's Report (including Magnuson-Stevens Act (MSA)/legislative update; discussion of joint meeting with International Pacific Halibut Commission (IPHC)) NMFS Management Report (including update Fishing Guide Definition and Habitat Division Update)
   ADF&G Report
   NOAA Enforcement Report
   USCG Report
   USFWS Report
   Protected Species Report
   National Institute for Occupational Safety and Health (NIOSH) Report
2. Observer Annual Deployment Plan; Observer Advisory Committee (OAC) Report
3. Electronic Monitoring (EM) Development—EM Workgroup report; SSC Review of Study Designs (T)
4. Bering Sea Aleutian Island (BSAI) Crab Stock Assessment Fishery Evaluation (SAFE) report: Set Acceptable Biological Catch/ Overfishing Levels (ABC/OFLs) for 7 stocks; Plan Team (PT) report
5. Proposed groundfish harvest specifications/PT Report
6. Initial review Gulf of Alaska (GOA) Skate Maximum Retainable Allowance (MRA) revisions
7. Discussion papers on MRA enforcement period/all fisheries
8. Discussion papers on GOA Trawl Bycatch Management; salmon genetics report/Alaska Fishery Science Center (AFSC) social survey update
9. Final action on Community Development Quota (CDQ) Pacific cod fishery development
10. Final action on Crab Right of First Refusal (ROFR) contract terms
11. Final action on ROFR Aleutia Processor Quota Share(PQS)
12. Initial review of Aleutian Island (AI) Pacific cod Allocation
13. Final report on Amendment 80 5-year review
14. Catch proposal/Discussion paper on Charter Halibut Common Pool
15. Ecosystem Committee report
16. Update/review on objectives for Bering Sea Fishery Ecosystem Plan (FEP)
17. Essential Fish Habitat (EFH) 5-year Review update: SSC only

The Advisory Panel will address most of the same agenda issues as the Council except B reports.

The SSC agenda will include the following issues:

1. Observer Deployment Plan
2. EM Study Design
3. BSAI Crab SAFE
4. Groundfish Specifications
5. GOA Skate MRA
6. AI Pacific cod allocation
7. Bering Sea FEP
8. EFH 5-year review
9. Salmon genetics report; AFSC social survey update

In addition to providing ongoing scientific advice for fishery management decisions, the SSC functions as the Councils primary peer review panel for scientific information as described by the Magnuson-Stevens Act section 302(g)(1)(e), and the National Standard 2 guidelines (78 FR 43066). The peer review process is also deemed to satisfy the requirements of the Information Quality Act, including the OMB Peer Review Bulletin guidelines.

The Agenda is subject to change, and the latest version will be posted at *http://www.npfmc.org* Background documents, reports, and analyses for review are posted on the Council Web site in advance of the meeting. The names and organizational affiliations of SSC members are also posted on the Web site.

Although non-emergency issues not contained in this agenda may come before these groups for discussion, those issues may not be the subject of formal action during these meetings. 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 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 Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: September 16, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–22375 Filed 9–18–14; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add products and a service to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities and delete products previously furnished by such agency.

DATES: *Comments Must Be Received On Or Before:* 10/20/2014.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products and service are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Products

NSN: MR 919—Brush, Scrubber Plastic Block
NSN: MR 1078—Broom, Corn Whisk
NPA: Alphapointe, Kansas City, MO
Contracting Activity: Defense Commissary Agency, Fort Lee, VA
Coverage: C-List for the requirements of military commissaries and exchanges as aggregated by the Defense Commissary Agency, Fort Lee, VA

NSN: 6140–01–545–0940—Battery, Storage, 12V
NPA: Eastern Carolina Vocational Center, Inc., Greenville, NC
Contracting Activity: Defense Logistics Agency Land and Maritime, Columbus, OH
Coverage: C-List for 100% of the requirement of the Department of Defense, as aggregated by the Defense Logistics Agency Land and Maritime, Columbus, OH

Service

Service Type/Location: Custodial Service, U.S. Army, Warrior Transition Battalion, 4–2027 Normandy Drive, Fort Bragg, NC
NPA: The Chimes, Inc., Baltimore, MD
Contracting Activity: Dept of the Army, W074 ENDIST WILMINGTON, Wilmington, NC

Deletion

The following products are proposed for deletion from the Procurement List:

Products

Liner, Flyer's Jacket, Air Force

NSN: 8415–00–844–9811—Green Quilted, Small

NSN: 8415–00–844–9812—Green Quilted, Medium

NSN: 8415–00–844–9813—Green Quilted, Large

NSN: 8415–00–844–9814—Green Quilted, X Large

NPA: Peckham Vocational Industries, Inc., Lansing, MI

Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2014–22355 Filed 9–18–14; 8:45 am]

BILLING CODE 6353–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

TIME AND DATE: Wednesday September 24, 2014, 10 a.m.–12 p.m.

PLACE: Hearing Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Commission Meeting—Open to the Public

MATTER TO BE CONSIDERED: Decisional Matter: Safety Standard for Magnet Sets—Final Rule

A live Web cast of the meeting can be viewed at *www.cpsc.gov/live.*

For a recorded message containing the latest agenda information, call (301) 504–7948.

CONTACT PERSON FOR MORE INFORMATION: Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7923.

Dated: September 16, 2014.

Todd A. Stevenson,

Secretariat.

[FR Doc. 2014–22457 Filed 9–17–14; 11:15 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 14–C0004]

Meijer, Inc., Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with Meijer, Inc., containing a civil penalty of two million dollars ($2,000,000.00 U.S. dollars), within twenty (20) days of service of the Commission's final Order accepting the Settlement Agreement.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by October 6, 2014.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 14–C0004 Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Room 820, Bethesda, Maryland 20814–4408.

FOR FURTHER INFORMATION CONTACT: Ray M. Aragon, General Attorney, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814–4408; telephone (301) 504–6883.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: September 16, 2014.

Todd A. Stevenson,

Secretary.

United States of America Consumer Product Safety Commission

In the Matter of: Meijer, Inc.

CPSC Docket No.: *14–C0004*

SETTLEMENT AGREEMENT

1. In accordance with the Consumer Product Safety Act (''CPSA''), 15 U.S.C. §§ 2051–2089 and 16 C.F.R. § 1118.20,

Meijer, Inc. (''Meijer''), and the U.S. Consumer Product Safety Commission (''Commission''), through its staff (''staff''), hereby enter into this Settlement Agreement (''Agreement''). The Agreement and the incorporated attached Order (''Order'') resolve staff's charges set forth below.

THE PARTIES

2. The Commission is an independent federal regulatory agency, established pursuant to, and responsible for, the enforcement of the CPSA. By executing the Agreement, staff is acting on behalf of the Commission, pursuant to 16 CFR 1118.20(b). The Commission issues the Order under the provisions of the CPSA.

3. Meijer is a corporation organized and existing under the laws of the state of Michigan. Its principal corporate offices are located at 2929 Walker Avenue NW., Grand Rapids, Michigan 49544. Meijer operates more than 200 stores in Michigan, Ohio, Indiana, Illinois and Kentucky.

STAFF CHARGES

4. CPSC staff charges that on multiple occasions between April 2010 and April 2011, Meijer knowingly sold, offered for sale, and distributed recalled consumer products in commerce, in violation of section 19(a)(2)(B) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2068(a)(2)(B). Meijer distributed at least twelve separate recalled consumer products, totaling approximately 1,692 individual units of recalled products (the ''Recalled Products''), through the reverse logistics system it operated with a third party contractor.

5. Each of the Recalled Products was recalled by its manufacturer pursuant to section 15 of the CPSA, and each was subject to a voluntary corrective action plan taken by the manufacturer, in consultation with the Commission. Each of the recalls was also publicized by each respective manufacturer and by the Commission.

6. The Recalled Products are ''consumer products,'' and at all relevant times Meijer was a ''retailer'' and/or manufacturer of these consumer products, which were ''distributed in commerce,'' as those terms are defined or used in sections 3(a)(5), (7) (11) and (13), of the CPSA, 15 U.S.C. 2052(a)(5), (7) and (11) (13).

7. Under CPSA section 19(a)(2)(B), it is unlawful for any person to sell, offer for sale, manufacture for sale, distribute in commerce, or import into the United States any consumer product that is subject to voluntary corrective action taken by the manufacturer, in consultation with the Commission, of which action the Commission has notified the public, or if the seller, distributor, or manufacturer knew, or should have known, of such voluntary corrective action.

8. Pursuant to section 20(a)(l) of the CPSA, 15 U.S.C. 2069(a)(1), any person who ''knowingly'' violates CPSA section 19 is subject to civil penalties. Under section 20(d) of the CPSA, 15 U.S.C. § 2069(d), the term ''knowingly'' means: ''(1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations.''

9. CPSC staff charges that beginning in or about April 2010, and including until at least in or about April 2011, Meijer received information from the third party contractor regarding the sale of all products handled by its third party contractor but failed to prevent the distribution of the Recalled Products.

10. CPSC staff charges that the Recalled Products that were resold include:

- 1,173 Touch Point Oscillating Ceramic Heaters manufactured by Ningbo Dongji Electronic Tech Co. LTC and imported by Meijer (CPSC Release No. 11–053, Nov. 23, 2010);
- 136 Bathtub Subs imported by Munchkin, Inc. (CPSC Release No. 11–012, Oct. 18, 2010);
- 114 Fisher-Price Trikes and Tough Trikes toddler tricycles manufactured by Fisher-Price (CPSC Release No. 10–359, Sept. 30, 2010);
- 93 Hoover WindTunnel T-Series Bagless Upright Vacuum Cleaners with Cord Rewind Feature imported by Hoover Inc. CPSC Release No. 10–248, May 27, 2010);
- 69 Little People Wheelies Stand 'n Play Rampways imported by Fisher Price (CPSC Release No. 10–360, Sept. 30, 2010);
- 50 Discovery Kids Animated Marine and Safari Lamps imported by Innovage LLC (CPSC Release No. 10–135, Feb. 9, 2010);
- 27 Ocean Wonders Kick & Crawl Aquariums imported by Fisher-Price (CPSC Release No. 10–362, Sept. 30, 2010);
- 17 Refreshing Rings Infant Teethers/Rattles imported by Sassy (CPSC Release No. 11–114, Jan. 31, 2011);
- 6 SlingRider Baby Slings manufactured by Infantino (CPSC Release No. 10–177, Mar. 24, 2010);
- 5 Box Fans manufactured by Lasko (CPSC Release No. 11–183, Mar. 24, 2011);
- 1 Harmony High Chair manufactured by Graco Children's Products (CPSC Release No. 10–171, Mar. 18, 2010, revised Mar. 21, 2011); and
- 1 Random Orbit Sander manufactured by Black & Decker (CPSC Release No. 10–339, Sept. 9, 2010).

11. Staff charges that Meijer's sale and distribution of these Recalled Products was knowing, as that term is defined in Section 20(d) of the CPSA, 15 U.S.C. 2069(d).

12. Pursuant to section 20 of the CPSA, 15 U.S.C. 2069, Meijer is subject to a civil penalty for its knowing resale of the Recalled Products, which was in violation of section 19(a)(2)(B) of the CPSA, 15 U.S.C. 2068(a)(2)(B).

MEIJER'S RESPONSE

13. Meijer neither admits nor denies the charges set forth in paragraphs 4 through 12 including, but not limited to, the charge that Meijer knowingly sold, offered for sale, and distributed recalled consumer products in commerce, in violation of section 19(a)(2)(B) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2068(a)(2)(B).

14. Meijer reasonably relied upon the reverse logistics system operated through an independent third party it hired to handle its disposition of the Recalled Products. Meijer believed that adequate safeguards were in place to prevent Recalled Products from being distributed into commerce and states that any distribution of the Recalled Products was inadvertent and occurred without Meijer's knowledge.

15. In March 2011, Meijer, in conjunction with CPSC, voluntarily re-announced a recall of the Recalled Products that had been inadvertently distributed through the reverse logistics system operated through an independent third party.

16. Meijer has informed the Commission that it is not aware of any reported incidents or injuries associated with the Recalled Products.

AGREEMENT OF THE PARTIES

17. Under the CPSA, the Commission has jurisdiction over the matter involving the Recalled Products described herein and over Meijer.

18. In settlement of staff's charges, and to avoid the cost, distraction, delay, uncertainty, and inconvenience of protracted litigation or other proceedings, Meijer shall pay a civil penalty in the amount of two million dollars ($2,000,000.00 U.S. dollars), which shall be due and payable within twenty (20) calendar days after receiving service of the Commission's final Order accepting the Agreement. All payments to be made under the Agreement shall constitute debts owing to the United

States and shall be made by electronic wire transfer to the United States via: *http://www.pay.gov.*

19. The parties agree that this settlement figure is predicated, among other things, upon the accuracy of oral and written representations of, and statements by, Meijer and Meijer's representatives (including representations set forth in the Agreement).

20. The parties enter into the Agreement for settlement purposes only. The Agreement does not constitute any legal or factual admission by Meijer or a determination by the Commission that Meijer violated the CPSA.

21. Following staff's receipt of the Agreement executed on behalf of Meijer, staff shall promptly submit the Agreement to the Commission for provisional acceptance. Promptly following provisional acceptance of the Agreement by the Commission, the Agreement shall be placed on the public record and published in the **Federal Register**, in accordance with the procedures set forth in 16 CFR 1118.20(e). If, within fifteen (15) calendar days, the Commission does not receive any written request not to accept the Agreement, the Agreement shall be deemed finally accepted on the sixteenth (16th) calendar day after the date the Agreement is published in the **Federal Register**, in accordance with 16 CFR 1118.20(f).

22. The Agreement is conditioned upon, and subject to, the Commission's final acceptance, as set forth above, and is subject to the provisions of 16 CFR § 1118.20(h). Upon the later of: (i) The Commission's final acceptance of the Agreement and service of the accepted Agreement upon Meijer, and (ii) the date of issuance of the final Order, the Agreement shall be in full force and effect and shall be binding upon the parties.

23. Effective upon the later of: (i) The Commission's final acceptance of the Agreement and service of the accepted Agreement upon Meijer, and (ii) the date of issuance of the final Order, for good and valuable consideration, Meijer hereby expressly and irrevocably waives and agrees not to assert any past, present, or future rights to the following actions or remedies in connection with the matters described in the Agreement: (a) An administrative or judicial hearing; (b) judicial review or other challenge or contest of the validity of the Order or of the Commission's actions; (c) a determination by the Commission of whether Meijer failed to comply with the CPSA and the underlying regulations; (d) a statement of findings of fact and conclusions of law; and (e) any claims under the Equal Access to Justice Act.

24. Meijer represents and agrees that it will maintain a reverse logistics compliance program designed to avoid violations by Meijer of CPSA § 19(a)(2)(B) by introducing recalled consumer products into the stream of commerce. Meijer represents that its ongoing reverse logistics program will contain (i) written standards, policies, and procedures for the appropriate disposition of recalled goods; (ii) mechanisms to communicate to all applicable Meijer employees through training programs or otherwise, company policies and procedures to prevent violations of CPSA § 19(a)(2)(B); (iii) management oversight of a reverse logistics program, including a mechanism for Meijer employees' confidential reporting to a Meijer official with the authority to act as necessary; (iv) a policy to retain Meijer reverse logistics records related to the recalled product collection and disposition, for at least five (5) years from the date of the recall; and (v) availability of such records to Commission staff, upon reasonable request.

25. The parties acknowledge and agree that the Commission may make public disclosure of the terms of the Agreement and the Order.

26. Meijer represents that the Agreement: (i) Is entered into freely and voluntarily, without any degree of duress or compulsion whatsoever; (ii) has been duly authorized; and (iii) constitutes the valid and binding obligation of Meijer, and each of its successors and/or assigns, enforceable against Meijer in accordance with the Agreement's terms. The individuals signing the Agreement on behalf of Meijer represent and warrant that they are duly authorized by Meijer to execute the Agreement.

27. The Commission signatories represent that they are signing the Agreement in their official capacities and that they are authorized to execute the Agreement.

28. The Agreement is governed by the laws of the United States.

29. The Agreement and the Order shall apply to, and be binding upon, Meijer and each of its companies, subsidiaries, successors, transferees, and assigns, and a violation of the Agreement or Order may subject Meijer and each of its companies, subsidiaries, successors, transferees, and assigns to appropriate legal action.

30. The Agreement and the Order constitute the complete agreement between the parties on the subject matter contained herein and therein.

31. The Agreement may be used in interpreting the Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and the Order may not be used to vary or contradict their terms. For purposes of construction, the Agreement shall be deemed to have been drafted by both of the parties, and shall not be construed against any party for that reason in any subsequent dispute.

32. The Agreement shall not be waived, amended, modified, or otherwise altered, except as in accordance with the provisions of 16 CFR 1118.20(h). The Agreement may be executed in counterparts.

33. If any provision of the Agreement or the Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and the Order, such provision shall be fully severable. The balance of the Agreement and the Order shall remain in full force and effect, unless the Commission and Meijer agree that severing the provision materially affects the purpose of the Agreement and Order.

Meijer, Inc.

Dated: September 3, 2014.

Janet G. Kelley, Senior Vice President,
General Counsel and Secretary,
Meijer, Inc.,
2929 Walker Avenue NW.,
Grand Rapids, Michigan 49544.

Dated: September 3, 2014.

Georgia C. Ravitz, Esq.,
Arent Fox LLP,
1717 K Street NW.,
Washington, DC 20036,
Counsel for Meijer, Inc.

U.S. Consumer Product Safety, Commission Staff.

Stephanie Tsacoumis,
General Counsel.
Mary T. Boyle,
Deputy General Counsel.
Mary B. Murphy,
Assistant General Counsel.
Dated: September 3, 2014.

Ray M. Aragon,
General Attorney.

UNITED STATES OF AMERICA CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of: Meijer, Inc.

CPSC Docket No.: *14–C0004*

ORDER

Upon consideration of the Settlement Agreement entered into between Meijer, Inc. (''Meijer''), and the U.S. Consumer Product Safety Commission (''Commission''), and the Commission having jurisdiction over the subject matter and over Meijer, and it appearing

that the Settlement Agreement and the Order are in the public interest, it is

ORDERED that the Settlement Agreement be, and is, hereby, accepted; and it is

FURTHER ORDERED, that Meijer shall comply with the terms of the Settlement Agreement and shall pay a civil penalty of two million dollars ($2,000,000.00 U.S. dollars), within twenty (20) calendar days after receiving service of the Commission's final Order accepting the Settlement Agreement. Upon failure of Meijer to make the foregoing payment when due, interest on the unpaid amount shall accrue and be paid by Meijer at the federal legal rate of interest set forth at 28 U.S.C. 1961(a) and (b). If Meijer fails to make such a payment or to comply in full with any other provision as set forth in the Settlement Agreement, such conduct will be considered a violation of the Settlement Agreement and Order.

Provisionally accepted and provisional Order issued on the*16th* day of *September,* 2014.

By Order of the Commission.

Todd A. Stevenson,
Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2014–22344 Filed 9–18–14; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Regents, Uniformed Services University of the Health Sciences; Notice of Federal Advisory Committee Meeting

AGENCY: Uniformed Services University of the Health Sciences (USU), Department of Defense.

ACTION: Quarterly meeting notice.

SUMMARY: The Department of Defense is publishing this notice to announce the following meeting of the Board of Regents, Uniformed Services University of the Health Sciences (''the Board'').

DATES: Tuesday, October 14, 2014, from 2:00 p.m. to 3:45 p.m. (Open Session) and 4:00 p.m. to 5:00 p.m. (Closed Session).

ADDRESSES: Hershey Lodge, 325 University Drive, Hershey, PA 17033.

FOR FURTHER INFORMATION CONTACT: Jennifer Nuetzi James, Designated Federal Officer, 4301 Jones Bridge Road, D3002, Bethesda, Maryland 20814; telephone 301–295–3066; email *jennifer.nuetzi-james@usuhs.edu.*

SUPPLEMENTARY INFORMATION: This meeting notice is being published under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR part 102–3.150.

Purpose of the Meeting: The purpose of the meeting is to review the operations of USU, particularly the academic affairs, and provide advice to the USU President and the Assistant Secretary of Defense for Health Affairs (who represents the Secretary of Defense). These actions are necessary for the University to pursue its mission, which is to provide outstanding healthcare practitioners and scientists to the uniformed services, and to obtain institutional accreditation.

Agenda: The actions that will take place include the approval of minutes from the Board Meeting held on August 5, 2014; recommendations regarding the approval of faculty appointments and promotions; recommendations regarding the awarding of post-baccalaureate degrees; and the review of awards and honors. The USU President will provide a report on recent actions affecting academic and operations of the University. The Armed Forces Radiobiology Research Institute will provide an operational update; the F. Edward Hébert School of Medicine will provide academic updates to include initiatives and collaborations; the Daniel K. Inouye Graduate School of Nursing will present an update on academic activities and collaborations; and the Postgraduate Dental College will provide an update on academic activities. A closed session will be held to discuss personnel actions and active investigations.

Meeting Accessibility: Pursuant to Federal statute and regulations (5 U.S.C. 552b and 41 CFR parts 102–3.140 through 102–3.165) and the availability of space, the meeting is open to the public from 2:00 p.m. to 3:45 p.m. Seating is on a first-come basis. Members of the public wishing to attend the meeting should contact Jennifer Nuetzi James at the address and phone number noted in the **FOR FURTHER INFORMATION CONTACT** section.

Pursuant to 5 U.S.C. 552b(c)(2, 5–7) the Department of Defense has determined that the portion of the meeting from 4:00 p.m. to 5:00 p.m. shall be closed to the public. The Under Secretary of Defense (Personnel and Readiness), in consultation with the Office of the DoD General Counsel, has determined in writing that a portion of the committee's meeting will be closed as the discussion will disclose sensitive personnel information, will include matters that relate solely to the internal personnel rules and practices of the agency, will involve allegations or findings of a person having committed a crime or censuring an individual, and may disclose investigatory records compiled for law enforcement purposes.

Written Statements: Pursuant to 41 CFR part 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Board about its approved agenda pertaining to this meeting, or at any time on the Board's mission. Interested persons may submit a written statement for consideration by the Board. Individuals submitting a written statement must submit their statement to the Designated Federal Officer at the address listed in **FOR FURTHER INFORMATION CONTACT.** If such statement is not received at least 5 calendar days prior to the meeting, it may not be provided to or considered by the Board until a later date. The Designated Federal Officer will compile all timely submissions with the Board's Chairman and ensure such submissions are provided to Board Members before the meeting.

Dated: September 16, 2014.

Aaron Siegel,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–22399 Filed 9–18–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

U.S. Strategic Command Strategic Advisory Group; Notice of Advisory Committee Closed Meeting

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee closed meeting.

SUMMARY: The Department of Defense is publishing this notice to announce the following Federal Advisory Committee meeting of the U.S. Strategic Command Strategic Advisory Group. This meeting will be closed to the public.

DATES: Thursday, October 16, 2014, from 8:00 a.m. to 5:00 p.m. and Friday, October 17, 2014, from 8:00 a.m. to 11:00 a.m.

ADDRESSES: Dougherty Conference Center, Building 432, 906 SAC Boulevard, Offutt AFB, Nebraska 68113.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Sudduth, Designated Federal Officer, (402) 294–4102, 901 SAC Boulevard, Suite 1F7, Offutt AFB, NE 68113–6030.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App 2, Section 1), the Government in Sunshine Act of 1976 (5 U.S.C. 552b), and 41 CFR 102–3.150.

Purpose of the Meeting: The purpose of the meeting is to provide advice on scientific, technical, intelligence, and policy-related issues to the Commander, U.S. Strategic Command, during the development of the Nation's strategic war plans.

Agenda: Topics include: Policy Issues, Space Operations, Nuclear Weapons Stockpile Assessment, Weapons of Mass Destruction, Intelligence Operations, Cyber Operations, Global Strike, Command and Control, Science and Technology, Missile Defense.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, and 41 CFR 102–3.155, the Department of Defense has determined that the meeting shall be closed to the public. Per delegated authority by the Chairman, Joint Chiefs of Staff, Admiral C.D. Haney, Commander, U.S. Strategic Command, in consultation with his legal advisor, has determined in writing that the public interest requires that all sessions of this meeting be closed to the public because they will be concerned with matters listed in 5 U.S.C. 552b(c)(1).

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the membership of the Strategic Advisory Group at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Strategic Advisory Group's Designated Federal Officer; the Designated Federal Officer's contact information can be obtained from the GSA's FACA Database—*http://www.facadatabase.gov/*. Written statements that do not pertain to a scheduled meeting of the Strategic Advisory Group may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than five business days prior to the meeting in question. The Designated Federal Officer will review all submitted written statements and provide copies to all the committee members.

Dated: September 15, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–22319 Filed 9–18–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

The SunShot Prize: Race to the Rooftops

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

ACTION: Notice of decision to suspend prize rules and intent to issue a modified draft rules document.

SUMMARY: The Department of Energy (DOE) gives notice of its decision to suspend, effective September 18th, 2014, competition rules for the SunShot Prize: Race to the Rooftop in order to broaden the scope of participation and better align competition rules with SunShot goals given that the U.S. solar market has already realized 60% of the SunShot price targets for 2020. Building on this success, DOE will continue to target aggressive scenarios for reducing costs and increasing access to solar technologies for American consumers. DOE intends to release an updated draft rules document of the SunShot Prize program no later than the end of this calendar year and remains committed to accelerating market innovation using a balanced program portfolio of funding opportunities, initiatives, and prize challenges.

DATES: The current rules of the SunShot Prize will be suspended effective September 18th, 2014. DOE intends to release a modified draft rules document of the SunShot Prize program no later than end of the calendar year.

ADDRESSES: Questions about the SunShot prize can be sent to:

- *Email: sunshot.prize@ee.doe.gov.*
- *Mail:* Dr. Elaine Ulrich, U.S. Department of Energy, Mailstop EE–4S, 1000 Independence Avenue, Washington DC, 20585.

FOR FURTHER INFORMATION CONTACT: Questions may be directed to Dr. Elaine Ulrich at (202) 287–1862 or by email at: *sunshot.prize@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: The DOE's SunShot Initiative aims to make subsidy-free solar energy cost-competitive with conventional forms of energy by the end of the decade. In collaboration with industry, SunShot drives American innovation in manufacturing, engineering, and business through a series of programs designed to spark and promote market solutions to solar energy development and clean energy growth. Launched in September 2012, the SunShot Prize aims to spur the ingenuity of America's businesses and communities to make it faster, easier, and cheaper to install solar energy systems across the nation. This prize competition focuses on lowering barriers and reducing inefficiencies that prevent the rapid deployment of cost-effective solar energy solutions. DOE intends to reexamine the current competition rules in light of today's market needs and conditions, plans to broaden the scope of participation, and better align competition rules with SunShot goals. Despite tremendous progress in the U.S. solar market for the past two years, significant obstacles continue to hinder the public vested interest in lowering the cost of solar deployment. DOE remains committed to accelerating market innovation using the SunShot Prize program among other initiatives and funding opportunities. To learn more about the SunShot Initiative or the SunShot Prize, please visit: *http://energy.gov/sunshot.*

Dated: September 4, 2014.

Minh Le,

The SunShot Initiative, Director, Solar Energy Technologies Office, U.S. Department of Energy.

[FR Doc. 2014–22372 Filed 9–18–14; 8:45 am]

BILLING CODE 6450–01–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: EC14–140–000.

Applicants: Dynegy Inc., Dighton Power, LLC, Elwood Energy LLC, EquiPower Resources Management, LLC, Kincaid Generation, L.L.C., Lake Road Generating Company, L.P., Liberty Electric Power, LLC, MASSPOWER, Milford Power Company, LLC, Richland-Stryker Generation LLC, Brayton Point Energy, LLC.

Description: Joint Application for Order Authorizing Acquisition and Disposition of Jurisdictional Facilities Under Section 203 of the Federal Power Act of Dynegy Inc., et. al.

Filed Date: 9/11/14.

Accession Number: 20140911–5190.

Comments Due: 5 p.m. ET 10/2/14.

Docket Numbers: EC14–141–000.

Applicants: Dynegy Resource I, LLC, Duke Energy Commercial Asset Management, Duke Energy Retail Sales, LLC.

Description: Joint Application for Order Authorizing Acquisition and Disposition of Jurisdictional Facilities Under Section 203 of the Federal Power Act of Dynegy Resource I, LLC, et. al.

Filed Date: 9/11/14.

Accession Number: 20140911–5191.

Comments Due: 5 p.m. ET 10/2/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2265–003*; ER12–21–015; ER11–2211–004; ER11–2209–004; ER11–2210–004; ER11–2210–004; ER11–2207–004; ER11–2206–004; ER13–1150–002; ER13–1151–002; ER10–2783–010; ER10–2784–010; ER11–2855–014; ER10–2791–010; ER10–2333–003; ER14–1865–004; ER10–2792–010; ER14–1818–003; ER12–1238–003; ER10–2260–002; ER10–2261–002; ER10–2337–005; ER14–1668–001; ER14–1669–001; ER14–1674–001; ER14–1670–001; ER14–1671–001; ER14–1675–001; ER14–1673–001; ER14–1676–001; ER14–1677–001; ER14–1678–001; ER14–1679–001; ER14–1672–001; ER10–2795–010; ER10–2798–010; ER10–1575–008; ER10–2339–005; ER10–2338–005; ER10–2340–005; ER12–1239–003; ER10–2336–003; ER10–2335–003; ER10–2799–010; ER10–2801–010; ER10–2385–003; ER11–3727–010; ER10–2262–001; ER12–2413–008; ER11–2062–012; ER10–2346–004; ER10–2812–009; ER10–1291–013; ER10–2843–008; ER11–2508–011; ER11–2863–007; ER11–4307–012; ER10–2347–003; ER10–2348–003; ER12–1711–010; ER10–2350–003; ER10–2846–010; ER12–261–011; ER10–3223–004; ER10–2351–003; ER10–2875–010; ER10–2368–003; ER10–2352–003; ER10–2264–002; ER10–1581–012; ER10–2353–004; ER10–2876–010; ER10–2878–010; ER10–2354–004; ER10–2355–005; ER10–2879–010; ER10–2384–004; ER10–2383–004; ER10–2880–010; ER11–2107–003; ER11–2108–003; ER10–2888–012; ER13–1745–005; ER13–1803–006; ER13–1788–005; ER13–1789–005; ER13–1790–006; ER10–2896–010; ER10–2913–010; ER13–1791–004; ER13–1746–007; ER10–2914–012; ER13–1799–005; ER13–1801–005; ER13–1802–005; ER10–2916–010; ER10–2915–010; ER12–1525–010; ER12–2019–009; ER10–2266–001; ER12–2398–009; ER11–3459–009; ER10–2931–010; ER13–1965–006; ER10–2969–010; ER11–4351–005; ER11–4308–012; ER11–2805–011; ER10–3143–014; ER10–1580–012; ER10–2382–003; ER11–2856–014; ER10–2356–003; ER10–2357–003; ER13–2107–005; ER13–2020–005; ER13–2050–005; ER10–2358–003; ER11–2857–014; ER10–2359–003; ER10–2360–003; ER10–2369–003; ER10–2947–010; ER10–2381–003; ER10–2575–003; ER10–2361–003.*

Applicants: NRG Power Marketing LLC, Agua Caliente Solar, LLC, Alta Wind I, LLC, Alta Wind II, LLC, Alta Wind III, LLC, Alta Wind V, LLC, Alta Wind X, LLC, Alta Wind XI, LLC, Arthur Kill Power LLC, Astoria Gas Turbine Power LLC, Avenal Park LLC, Bayou Cove Peaking Power, LLC, Bendwind, LLC, BETM Solutions LLC, Big Cajun I Peaking Power LLC, Boston Energy Trading and Marketing LLC, Broken Bow Wind, LLC, Cabrillo Power I LLC, Cabrillo Power II LLC,CL Power Sales Eight, L.L.C., Community Wind North 1 LLC, Community Wind North 10 LLC, Community Wind North 11 LLC, Community Wind North 2 LLC, Community Wind North 13 LLC, Community Wind North 15 LLC, Community Wind North 3 LLC, Community Wind North 5 LLC, Community Wind North 6 LLC, Community Wind North 7 LLC, Community Wind North 8 LLC, Community Wind North 9 LLC, Conemaugh Power LLC, Connecticut Jet Power LLC,CP Power Sales Nineteen, L.L.C.,CP Power Sales Twenty, L.L.C.,CP Power Sales Seventeen, L.L.C., Crofton Bluffs Wind, LLC, DeGreeff DP, LLC, DeGreeffpa, LLC, Devon Power LLC, Dunkirk Power LLC, Elkhorn Ridge Wind, LLC, El Segundo Energy Center LLC, El Segundo Power, LLC, Energy Alternatives Wholesale, LLC, Energy Plus Holdings LLC, Forward WindPower LLC, GenConn Devon LLC, GenConn Energy LLC, GenConn Middletown LLC, GenOn Energy Management, LLC, GenOn Mid-Atlantic, LLC, Green Mountain Energy Company, Groen Wind, LLC, High Plains Ranch II, LLC, Hillcrest Wind, LLC, Huntley Power LLC, Independence Energy Group LLC, Indian River Power LLC, Jeffers Wind 20, LLC, Keystone Power LLC, Laredo Ridge Wind, LLC, Larswind, LLC, Long Beach Generation LLC, Long Beach Peakers LLC, Lookout Windpower, LLC, Louisiana Generating LLC, Middletown Power LLC, Midway-Sunset Cogeneration Company, Midwest Generation, LLC, Montville Power LLC, Mountain Wind Power II, LLC, Mountain Wind Power, LLC,NEO Freehold-Gen LLC, North Community Turbines LLC, North Wind Turbines LLC, Norwalk Power LLC,NRG Bowline LLC,NRG California South LP,NRG Canal LLC,NRG Chalk Point LLC,NRG Delta LLC,NRG Energy Center Dover LLC,NRG Energy Center Paxton LLC,NRG Florida LP,NRG Marsh Landing LLC,NRG New Jersey Energy Sales LLC,NRG Potomac River LLC,NRG Power Midwest LP,NRG REMA LLC,NRG Rockford LLC,NRG Rockford II LLC,NRG Solar Alpine LLC,NRG Solar Avra Valley LLC,NRG Solar Blythe LLC,NRG Solar Borrego I LLC,NRG Solar Roadrunner LLC,NRG Sterlington Power LLC,NRG Wholesale Generation LP, Oswego Harbor Power LLC, Pinnacle Wind, LLC, Reliant Energy Northeast LLC,RRI Energy Services, LLC, Sabine Cogen, LP, Saguaro Power Company, a Limited Partner, San Juan Mesa Wind Project, LLC, Sand Drag LLC, Sierra Wind, LLC, Sleeping Bear, LLC, Solar Partners I, LLC, Solar Partners II, LLC, Solar Partners VIII, LLC, Storm Lake Power Partners I LLC, Sun City Project LLC, Sunrise Power Company, LLC,TAIR Windfarm, LLC, Taloga Wind, LLC, Vienna Power LLC, Walnut Creek Energy, LLC, Watson Cogeneration Company, Wildorado Wind, LLC, Alta Wind IV, LLC, CottonWood Energy Company LP, High Lonesome Mesa, LLC.

Description: Notice of Non-Material Change in Status of NRG Power Marketing, LLC, et. al.

Filed Date: 9/11/14.

Accession Number: 20140911–5197.

Comments Due: 5 p.m. ET 10/2/14.

Docket Numbers: ER14–2821–001.

Applicants: Spring Canyon Energy III LLC.

Description: Tariff Amendment per 35.17(b): Supplement to Market-Based Rate Application to be effective 10/20/2014.

Filed Date: 9/10/14.

Accession Number: 20140910–5059.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2830–000.

Applicants: FPL Energy Marcus Hook, L.P.

Description: Compliance filing per 35: FPL Energy Marcus Hook, L.P. Order No. 784 Compliance Filing to be effective 9/11/2014.

Filed Date: 9/10/14.

Accession Number: 20140910–5184.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2853–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Withdrawal per 35.15: Notice of Cancellation of Service Agreement No. 3090; Queue No. W1–105 to be effective 10/9/2014.

Filed Date: 9/11/14.

Accession Number: 20140911–5178.

Comments Due: 5 p.m. ET 10/2/14.

Docket Numbers: ER14–2854–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Withdrawal per 35.15: Notice of Cancellation of Service Agreement No. 3091; Queue No. W1–106 to be effective 10/9/2014.

Filed Date: 9/11/14.
Accession Number: 20140911–5179.
Comments Due: 5 p.m. ET 10/2/14.

Docket Numbers: ER14–2855–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Spicer Meadows Power House WPA to be effective 9/12/2014.
Filed Date: 9/11/14.
Accession Number: 20140911–5180.
Comments Due: 5 p.m. ET 10/2/14.

Docket Numbers: ER14–2856–000.
Applicants: Southern California Edison Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): True-Up LGIA with Blythe Energy, LLC to be effective 11/12/2014.
Filed Date: 9/12/14.
Accession Number: 20140912–5001.
Comments Due: 5 p.m. ET 10/3/14

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: September 12, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–22389 Filed 9–18–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #3

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC14–143–000.
Applicants: Iberdrola Arizona Renewables, LLC, Dry Lake Wind Power II LLC.
Description: Joint Application for Order Authorizing Acquisition and Disposition of Jurisdictional Facilities Under Section 203 of the Federal Power Act Grand Iberdrola Arizona Renewables, LLC, et. al.
Filed Date: 9/12/14.
Accession Number: 20140912–5158.
Comments Due: 5 p.m. ET 10/3/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–2864–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Revisions to the OATT & OA re Incremental Multi-Driver Project to be effective 11/12/2014.
Filed Date: 9/12/14.
Accession Number: 20140912–5163.
Comments Due: 5 p.m. ET 10/3/14.

Docket Numbers: ER14–2865–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–09–12 PRMR LCR Filing to be effective 11/11/2014..
Filed Date: 9/12/14.
Accession Number: 20140912–5169.
Comments Due: 5 p.m. ET 10/3/14.

Docket Numbers: ER14–2866–000.
Applicants: Louisville Gas and Electric Company.
Description: Compliance filing per 35: Filing to comply with Docket No. EL14_76_000 to be effective 1/1/2015.
Filed Date: 9/12/14.
Accession Number: 20140912–5178.
Comments Due: 5 p.m. ET 10/3/14.

Docket Numbers: ER14–2867–000.
Applicants: Baltimore Gas and Electric Company, PJM Interconnection, L.L.C.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): PJM TOs revisions to OATT Schedule 12 regarding multi driver projects to be effective 11/12/2014.
Filed Date: 9/12/14.
Accession Number: 20140912–5179.
Comments Due: 5 p.m. ET 10/3/14.

Docket Numbers: ER14–2868–000.
Applicants: Portland General Electric Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 7th Amend Boardman Agreement to be effective 11/1/2014.
Filed Date: 9/12/14.
Accession Number: 20140912–5182.
Comments Due: 5 p.m. ET 10/3/14.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES14–53–000.
Applicants: Kansas City Power & Light Company.
Description: Kansas City Power & Light Company Application for Authorization of Issuance of Short-Term Debt Securities Under Section 204 of the Federal Power Act.
Filed Date: 9/12/14.
Accession Number: 20140912–5154.
Comments Due: 5 p.m. ET 10/3/14.

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: September 12, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–22391 Filed 9–18–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3125–008; *ER10–3168–010; ER13–445–003; ER11–3460–005; ER10–3243–003; ER10–3244–003; ER13–342–005; ER14–2823–001; ER10–3102–008; ER10–3245–002; ER10–3249–002; ER10–3250–002; ER11–4060–003; ER11–4061–003; ER10–3169–006; ER10–3100–008; ER10–3251–001; ER14–2382–001; ER12–2570–006; ER11–2639–002; ER13–1586–002; ER10–1992–008; ER10–3107–008; ER10–3109–008; ER13–618–005; ER12–1301–004.*
Applicants: AL Sandersville, LLC, ArcLight Energy Marketing, LLC, Badger Creek Limited, Bayonne Energy Center, LLC, Chandler Wind Partners, LLC, Coso Geothermal Power Holdings, LLC, CPV Shore, LLC, Double C Generation Limited Partnership, Effingham County Power, LLC, Foote Creek II, LLC, Foote Creek III, LLC, Foote Creek IV, LLC, High Sierra Limited, Kern Front Limited, Michigan Power Limited Partnership, MPC Generating, LLC, Oak Creek Wind Power, LLC, ON WIND

ENERGY LLC, Panther Creek Power Operating, LLC, Ridge Crest Wind Partners, LLC,TGP Energy Management, LLC, Victory Garden Phase IV, LLC, Walton County Power, LLC, Washington County Power, LLC, Westwood Generation, LLC, Zone J Tolling Co., LLC

Description: Notice of Non-Material Change in Status of AL Sandersville, LLC, et. al.

Filed Date: 9/10/14.

Accession Number: 20140910–5215.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER13–1139–007.

Applicants: Imperial Valley Solar 1, LLC.

Description: Supplement to August 1, 2014 Notification of Non-Material Change in Status of Imperial Valley Solar 1, LLC.

Filed Date: 9/8/14.

Accession Number: 20140908–5132.

Comments Due: 5 p.m. ET 9/29/14.

Docket Numbers: ER14–2824–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–09–10_ ProFormaAPSA to be effective 11/10/2014.

Filed Date: 9/10/14.

Accession Number: 20140910–5174.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2825–000.

Applicants: Backbone Mountain Windpower LLC.

Description: Compliance filing per 35: Backbone Mountain Windpower, LLC Order No. 784 Compliance Filing to be effective 9/11/2014.

Filed Date: 9/10/14.

Accession Number: 20140910–5177.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2826–000.

Applicants: Bayswater Peaking Facility, LLC.

Description: Compliance filing per 35: Bayswater Peaking Facility, LLC Order No. 784 Compliance Filing to be effective 9/11/2014.

Filed Date: 9/10/14.

Accession Number: 20140910–5178.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2827–000.

Applicants: Energy Storage Holdings, LLC.

Description: Compliance filing per 35: Energy Storage Holdings, LLC Order No. 784 Compliance Filing to be effective 9/11/2014.

Filed Date: 9/10/14.

Accession Number: 20140910–5179.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2828–000.

Applicants: FPL Energy Cape, LLC.

Description: Compliance filing per 35: FPL Energy Cape, LLC Order No. 784 Compliance Filing to be effective 9/11/2014.

Filed Date: 9/10/14.

Accession Number: 20140910–5180.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2829–000.

Applicants: FPL Energy Illinois Wind, LLC.

Description: Compliance filing per 35: FPL Energy Illinois Wind, LLC Order No. 784 Compliance Filing to be effective 9/11/2014.

Filed Date: 9/10/14.

Accession Number: 20140910–5181.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2830–000.

Applicants: FPL Energy MH50, L.P.

Description: Compliance filing per 35: FPL Energy MH50, L.P. Order No. 784 Compliance Filing to be effective 9/11/2014.

Filed Date: 9/10/14.

Accession Number: 20140910–5183.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2831–000.

Applicants: FPL Energy Wyman LLC.

Description: Compliance filing per 35: FPL Energy Wyman, LLC Order No. 784 Compliance Filing to be effective 9/11/2014.

Filed Date: 9/10/14.

Accession Number: 20140910–5185.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2832–000.

Applicants: FPL Energy Wyman IV LLC.

Description: Compliance filing per 35: FPL Energy Wyman IV, LLC Order No. 784 Compliance Filing to be effective 9/11/2014.

Filed Date: 9/10/14.

Accession Number: 20140910–5186.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2833–000.

Applicants: Jamaica Bay Peaking Facility, LLC.

Description: Compliance filing per 35: Jamaica Bay Peaking Facility, LLC Order No. 784 Compliance Filing to be effective 9/11/2014.

Filed Date: 9/10/14.

Accession Number: 20140910–5188.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2834–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–09–10_EIM_ CorrectOffset to be effective 10/1/2014.

Filed Date: 9/10/14.

Accession Number: 20140910–5189.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2835–000.

Applicants: Mantua Creek Solar, LLC.

Description: Compliance filing per 35: Mantua Creek Solar, LLC Order No. 784 Compliance Filing to be effective 9/11/2014.

Filed Date: 9/10/14.

Accession Number: 20140910–5190.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2836–000.

Applicants: Meyersdale Windpower LLC.

Description: Compliance filing per 35: Meyersdale Windpower, LLC Order No. 784 Compliance Filing to be effective 9/11/2014.

Filed Date: 9/10/14.

Accession Number: 20140910–5192.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2837–000.

Applicants: Mill Run Windpower, LLC.

Description: Compliance filing per 35: Mill Run Windpower, LLC Order No. 784 Compliance Filing to be effective 9/11/2014.

Filed Date: 9/10/14.

Accession Number: 20140910–5193.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2838–000.

Applicants: NEPM II, LLC.

Description: Compliance filing per 35: NEPM II, LLC Order No. 784 Compliance Filing to be effective 9/11/2014.

Filed Date: 9/10/14.

Accession Number: 20140910–5194.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2839–000.

Applicants: NextEra Energy Seabrook, LLC.

Description: Compliance filing per 35: NextEra Energy Seabrook, LLC Order No. 784 Compliance Filing to be effective 9/11/2014.

Filed Date: 9/10/14.

Accession Number: 20140910–5195.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2840–000.

Applicants: NextEra Energy Services Massachusetts, LLC.

Description: Compliance filing per 35: NextEra Energy Services Massachusetts, LLC Order No. 784 Compliance Filing to be effective 9/11/2014.

Filed Date: 9/10/14.

Accession Number: 20140910–5196.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2841–000.

Applicants: North Jersey Energy Associates, A Limited Partnership.

Description: Compliance filing per 35: North Jersey Energy Associates, A Limited Partnership Order No. 784 Compliance to be effective 9/11/2014.

Filed Date: 9/10/14.

Accession Number: 20140910–5197.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2842–000.

Applicants: Northeast Energy Associates, A Limited Partnership.

Description: Compliance filing per 35: Northeast Energy Associates, A Limited

Partnership Order No. 784 Compliance to be effective 9/11/2014.

Filed Date: 9/10/14.

Accession Number: 20140910–5198.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2843–000.

Applicants: Pennsylvania Windfarms, LLC.

Description: Compliance filing per 35: Pennsylvania Windfarms, LLC Order No. 784 Compliance Filing to be effective 9/11/2014.

Filed Date: 9/10/14.

Accession Number: 20140910–5199.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2844–000.

Applicants: Somerset Windpower, LLC.

Description: Compliance filing per 35: Somerset Windpower, LLC Order No. 784 Compliance Filing to be effective 9/11/2014.

Filed Date: 9/10/14.

Accession Number: 20140910–5200.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2845–000.

Applicants: Waymart Wind Farm L.P.

Description: Compliance filing per 35: Waymart Wind Farm, L.P. Order No. 784 Compliance Filing to be effective 9/11/2014.

Filed Date: 9/10/14.

Accession Number: 20140910–5201.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2846–000.

Applicants: California Independent System Operator Corporation.

Description: Compliance filing per 35: 2014–09–10 LGIA Filing in Compliance with August 11, 2014 Order in ER13–1312 to be effective 7/28/2010.

Filed Date: 9/10/14.

Accession Number: 20140910–5202.

Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: ER14–2847–000.

Applicants: Energy Investments, LLC, Energy Investments, LLC.

Description: Notice of Cancellation of Energy Investments, LLC of market based rate tariff.

Filed Date: 9/10/14.

Accession Number: 20140910–5213.

Comments Due: 5 p.m. ET 10/1/14.

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: September 11, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–22392 Filed 9–18–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–2848–000.

Applicants: Liberty Utilities (Granite State Electric).

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Borderline Sales Rate Sheet Update to be effective 11/1/2013.

Filed Date: 9/11/14.

Accession Number: 20140911–5081.

Comments Due: 5 p.m. ET 10/2/14.

Docket Numbers: ER14–2849–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2953 Cottonwood II Wind Project, LLC GIA to be effective 9/2/2014.

Filed Date: 9/11/14.

Accession Number: 20140911–5087.

Comments Due: 5 p.m. ET 10/2/14.

Docket Numbers: ER14–2850–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Integrated System Open Access Transmission Tariff Revisions to be effective 10/1/2015.

Filed Date: 9/11/14.

Accession Number: 20140911–5114.

Comments Due: 5 p.m. ET 10/2/14.

Docket Numbers: ER14–2851–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Integrated System Bylaws and Membership Agreement Revisions to be effective 11/10/2014.

Filed Date: 9/11/14.

Accession Number: 20140911–5115.

Comments Due: 5 p.m. ET 10/2/14.

Docket Numbers: ER14–2852–000.

Applicants: Westar Energy, Inc.

Description: Compliance filing per 35: Compliance Filing Revising Formula Rate Protocols to be effective 3/1/2015.

Filed Date: 9/11/14.

Accession Number: 20140911–5149.

Comments Due: 5 p.m. ET 10/2/14.

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: September 11, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–22393 Filed 9–18–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC14–142–000.

Applicants: Grand Ridge Energy LLC, Grand Ridge Energy II LLC, Grand Ridge Energy III LLC, Grand Ridge Energy IV LLC, Grand Ridge Energy Storage LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act and Request for Waivers and Expedited Action of Grand Ridge Energy LLC, et. al.

Filed Date: 9/12/14.

Accession Number: 20140912–5058.

Comments Due: 5 p.m. ET 10/3/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–2372–000.

Applicants: California Independent System Operator Corporation.

Description: Amendment to July 07, 2014 California Independent System Operator Corporation tariff filing.

Filed Date: 9/11/14.

Accession Number: 20140911–5195.

Comments Due: 5 p.m. ET 9/17/14.

Docket Numbers: ER14–2857–000.

Applicants: FPL Energy MH50, L.P.
Description: Compliance filing per 35: FPL Energy MH50, L.P. Order No. 784 Compliance Filing to be effective 9/11/2014.
Filed Date: 9/12/14.
Accession Number: 20140912–5063.
Comments Due: 5 p.m. ET 10/3/14.

Docket Numbers: ER14–2858–000.
Applicants: Origin Wind Energy, LLC.
Description: Initial rate filing per 35.12 Origin Wind Energy, LLC MBR Tariff to be effective 9/15/2014.
Filed Date: 9/12/14.
Accession Number: 20140912–5085.
Comments Due: 5 p.m. ET 10/3/14.

Docket Numbers: ER14–2859–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Cancellation of KMEA NITSAs/NOAs Superseded by SA 2900 to be effective 5/1/2014.
Filed Date: 9/12/14.
Accession Number: 20140912–5096.
Comments Due: 5 p.m. ET 10/3/14.

Docket Numbers: ER14–2860–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–09–12_SA 6506 Presque Isle SSR Agr Termination & SA 6508 New SSR Agr to be effective 10/14/2014.
Filed Date: 9/12/14.
Accession Number: 20140912–5104.
Comments Due: 5 p.m. ET 10/3/14.

Docket Numbers: ER14–2861–000.
Applicants: Midcontinent Independent System Operator, Inc. Union Electric Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–09–12_SA 2697 Ameren-AECI Interchange Agreement (GFA No. 403) to be effective 9/13/2014.
Filed Date: 9/12/14.
Accession Number: 20140912–5108.
Comments Due: 5 p.m. ET 10/3/14.

Docket Numbers: ER14–2862–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–09–12_Schedule 43G Presque Isle Retirement to be effective 10/15/2014.
Filed Date: 9/12/14.
Accession Number: 20140912–5110.
Comments Due: 5 p.m. ET 10/3/14.

Docket Numbers: ER14–2863–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–09–12 ELMP 205 to change effective date to be effective 12/31/9998.
Filed Date: 9/12/14.
Accession Number: 20140912–5130.
Comments Due: 5 p.m. ET 10/3/14.

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: September 12, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–22390 Filed 9–18–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–2821–000]

Spring Canyon Energy III 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 Spring Canyon Energy III LLC's application for market-based rate authority, with an accompanying rate schedule, 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 October 2, 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(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive 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: September 12, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–22397 Filed 9–18–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–2798–000]

Beech Ridge Energy II 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 Beech Ridge Energy II LLC's application for market-based rate authority, with an accompanying rate schedule, 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 October 2, 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(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive 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.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–22398 Filed 9–18–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–2820–000]

Spring Canyon Energy II 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 Spring Canyon Energy II LLC's application for market-based rate authority, with an accompanying rate schedule, 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 October 2, 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(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive 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: September 12, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–22396 Filed 9–18–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–2799–000]

Beech Ridge Energy Storage LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Beech Ridge Energy Storage LLC's application for market-based rate authority, with an accompanying rate schedule, 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 October 2, 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(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive 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: September 12, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–22395 Filed 9–18–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL14–100–000]

Duke Energy Ohio, Inc.; Notice of Petition for Declaratory Order

Take notice that on September 11, 2014, pursuant to Rule 207 of the Federal Energy Regulatory Commission's (FERC or Commission) Rules of Practice and Procedure, 18 CFR 385.207, Duke Energy Ohio, Inc. filed a petition for declaratory order requesting that the Commission declare that section 305(a) of the Federal Power Act, 16 U.S.C. 825d(a) (2012), is not a bar to the internal corporate reorganization, more fully described in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on October 14, 2014.

Dated: September 12, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–22394 Filed 9–18–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2014–0543; FRL–9916–45]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is required under the Toxic Substances Control Act (TSCA) to publish in the **Federal Register** a notice of receipt of a premanufacture notice (PMN); an application for a test marketing exemption (TME), both pending and/or expired; and a periodic status report on any new chemicals under EPA review and the receipt of notices of commencement (NOC) to manufacture those chemicals. This document covers the period from July 1, 2014 to August 22, 2014.

DATES: Comments identified by the specific PMN number or TME number, must be received on or before October 20, 2014.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2014–0543, and the specific PMN number or TME number for the chemical related to your comment, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Bernice Mudd, Information Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8951; email address: *Mudd.Bernice@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the PMNs addressed in this action.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What action is the agency taking?

This document provides receipt and status reports, which cover the period from July 1, 2014 to August 22, 2014, and consists of the PMNs pending and/or expired, and the NOCs to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. What is the agency's authority for taking this action?

Section 5 of TSCA requires that EPA periodical publish in the **Federal Register** receipt and status reports, which cover the following EPA activities required by provisions of TSCA section 5.

EPA classifies a chemical substance as either an ''existing'' chemical or a ''new'' chemical. Any chemical substance that is not on EPA's TSCA Inventory is classified as a ''new chemical,'' while those that are on the TSCA Inventory are classified as an ''existing chemical.'' For more information about the TSCA Inventory go to: *http://www.epa.gov/opptintr/newchems/pubs/inventory.htm.* Anyone who plans to manufacture or import a new chemical substance for a non-exempt commercial purpose is required by TSCA section 5 to provide EPA with a PMN, before initiating the activity. Section 5(h)(1) of TSCA authorizes EPA to allow persons, upon application, to manufacture (includes import) or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a), for ''test marketing'' purposes, which is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *http://www.epa.gov/oppt/newchems.*

Under TSCA sections 5(d)(2) and 5(d)(3), EPA is required to publish in the **Federal Register** a notice of receipt of a PMN or an application for a TME and to publish in the **Federal Register** periodic status reports on the new chemicals under review and the receipt of NOCs to manufacture those chemicals.

IV. Receipt and Status Reports

In Table I. of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: The EPA case number assigned to the PMN, the date the PMN was received by EPA, the projected end date for EPA's review of the PMN, the submitting manufacturer/importer, the potential uses identified by the manufacturer/importer in the PMN, and the chemical identity.

TABLE I—115 PMNS RECEIVED FROM 7/1/14 TO 8/22/14

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
P–14–0660	7/1/2014	9/29/2014	CBI	(S) General Architectural And Industrial Coatings.	(G) Polyurethane Aqueous Dispersion.
P–14–0660	7/1/2014	9/29/2014	CBI	(S) Floor Coating	(G) Polyurethane Aqueous Dispersion.
P–14–0661	7/1/2014	9/29/2014	CBI	(G) Used in Ink Formulations	(G) Water Dispersible Polyester and Polycarbonate Polyol Based Polyurethane Urea Resin.
P–14–0662	7/2/2014	9/30/2014	Colonial Chemical, Inc.	(S) Intermediate	(S) D-Glucopyranose, Oligomeric C_{10-16}-Alkyl Glycosides, Polymers With Epichlorohydrin And Oligomeric Dglucopyranose Decyl Octyl Glycosides.
P–14–0663	7/3/2014	10/1/2014	CBI	(G) Component in Drilling Fluids	(G) Polyglycerol Fatty Acid Esters.
P–14–0664	7/3/2014	10/1/2014	CBI	(G) Coating Additive (Open, Non-Dispersive Use).	(G) 2-Propenoic Acid, Telomer with Alkanediol Mono-2-Propenoate and Sodium Phosphinate (1:1), Ammonium Salt.
P–14–0665	7/7/2014	10/5/2014	CBI	(G) Chemical Reactant	(G) Aromatic Carboxylic Acid.
P–14–0666	7/7/2014	10/5/2014	CBI	(G) Morphology Modifier For Plastics.	(G) Aromatic Carboxylic Acid Salt.
P–14–0667	7/7/2014	10/5/2014	CBI	(G) Chemical Reactant	(G) Aromatic Carboxylic Acid.
P–14–0668	7/7/2014	10/5/2014	CBI	(G) Morphology Modifier For Plastics.	(G) Aromatic Carboxylic Acid Salt.
P–14–0669	7/7/2014	10/5/2014	CBI	(G) Chelating/Complexing Agent	(G) Polyamine Carboxyalkyl Derivatives, Sodium Salts.
P–14–0670	7/7/2014	10/5/2014	CBI	(G) Adhesive Component	(G) MDI-Based Urethane Polymer.
P–14–0671	7/7/2014	10/5/2014	CBI	(G) Adhesive Component	(G) MDI-Based Urethane Polymer.
P–14–0672	7/8/2014	10/6/2014	CBI	(G) Dyestuff	(G) Substituted Naphthol Derivative.
P–14–0675	7/8/2014	10/6/2014	Eastman Chemical Company, Inc.	(S) Plasticizer	(S) 1,4-Benzenedicarboxylic Acid, 1,4-Bis(2-Methylpropyl) Ester.
P–14–0676	7/8/2014	10/6/2014	Eastman Chemical Company, Inc.	(S) Plasticizer	(S) 1,4-Benzenedicarboxylic Acid, 1-Butyl 4-(2-Methylpropyl) Ester.

TABLE I—115 PMNS RECEIVED FROM 7/1/14 TO 8/22/14—Continued

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
P–14–0677	7/8/2014	10/6/2014	CBI	(G) Radiation cured inks	(G) Polyester Acrylate.
P–14–0678	7/9/2014	10/7/2014	CBI	(G) The Material will be used as Polymer Modifier in Various Polymers.	(G) Mixed Ester Reacted Ester.
P–14–0679	7/8/2014	10/6/2014	CBI	(G) Additive, Open, Non-Dispersive Use.	(G) 2-(Dimethylamino)Ethyl Methyl-2-Propanoate, Polymer with Alkyl-Substituted Methyl-2-Propanoate and Aryl-Substituted Methyl-2-Propanoate, Salt with Phosphorylated Caprolactone, Alkyloxoheteromonocycle and Polyalkylene Polyol Alkyl Ether.
P–14–0680	7/9/2014	10/7/2014	CBI	(G) Low Foam Additive For Dish Detergents.	(G) Sorbitan Ester.
P–14–0681	7/10/2014	10/8/2014	Miwon North America, Inc.	(S) Resings For Industrial Coating	(G) Urethane Acrylate.
P–14–0682	7/10/2014	10/8/2014	CBI	(S) Millable Polyurethane	(G) Polyurethane.
P–14–0683	7/10/2014	10/8/2014	Qualice, LLC	(S) Extreme Pressure Additive In Lubricants.	(S) Tetradecane, Chloro Derivatives.
P–14–0683	7/10/2014	10/8/2014	Qualice, LLC	(S) Flame Retardant in Rubber Products.	(S) Tetradecane, Chloro Derivatives.
P–14–0684	7/10/2014	10/8/2014	Qualice, LLC	(S) Extreme Pressure Additive In Lubricants.	(S) Alkanes, C_{14-16}, Chloro.
P–14–0684	7/10/2014	10/8/2014	Qualice, LLC	(S) Flame Retardant In Rubber Products.	(S) Alkanes, C_{14-16}, Chloro.
P–14–0685	7/15/2014	10/13/2014	Alberdingk Boley Inc.	(S) For Wood Coatings	(G) Alkenoic Acid, Polymer with Alkyll 2-Alkyll-2-Alkenoate, Alkyll 2-Alkenoate, *N*-(1,1-Dialkyll-3-Oxoalkyl)-2-Alkenamide And Alkyl 2-Alkyll-2-Alkenenoate.
P–14–0686	7/15/2014	10/13/2014	Alberdingk Boley Inc.	(S) For Wood Coatings	(G) Alkenoic Acid, Polymer With Alkyl 2-Alkenoate, *N*-(1,1-Dialkyl-3-Oxoalkyl)-2-Alkenamide And Alkyl 2-Alkyl-2-Alkenoate.
P–14–0687	7/15/2014	10/13/2014	Alberdingk Boley Inc.	(S) For Wood Coatings	(G) Alkenoic Acid, Polymer With Alkyl-2-Alkyl-2-Alkenoate, Alkyl 2-Alkenoate, *N*-(1,1-Dialkyl-3-Oxoalkyl)-2-Alkenamide, Alkyl 2-Alkyl-2-Alkenoate And 1,1′-(1-Alkyl-11,3-Alkanediyl)Bis(2-Alkyl-2-Alkenoate).
P–14–0688	7/15/2014	10/13/2014	CBI	(S) Surfactant for Use n Asphalt Emulsions..	(G) Fatty Acid Amide Hydrochloride.
P–14–0689	7/15/2014	10/13/2014	CBI	(S) Surfactant for Use in Asphalt Emulsions.	(G) Fatty Acid Amide Hydrochloride.
P–14–0690	7/15/2014	10/13/2014	CBI	(S) Surfactant for Use in Asphalt Emulsions.	(G) Fatty Acid Amide Hydrochloride.
P–14–0691	7/15/2014	10/13/2014	CBI	(S) Surfactant for Use in Asphalt Emulsions.	(G) Fatty Acid Amide Hydrochloride.
P–14–0697	7/17/2014	10/15/2014	CBI	(S) Electrolyte in Dye-Sensitized Solar Cell (Dssc).	(G) Alkyl Substituted Heteroaromatic.
P–14–0698	7/17/2014	10/15/2014	CBI	(G) Component In A Blended Resin.	(G) Acid Compounds with Bisphenol A-Epichlorohydrin-Polypropylene Glycol Diamine-Polypropylene Glycol Diglycidyl Ether Polymer-Secondary Amine Reaction Products.
P–14–0699	7/18/2014	10/16/2014	CBI	(S) Electrolyte In Dye-Sensitized Solar Cell.	(G) Alkyl Substituted Heteroaromatic Salt.
P–14–0701	7/21/2014	10/19/2014	CBI	(G) Protective Coating	(G) Functionalized Fatty Acid, Polymer with Maleic Anhydride, Me Methacrylate, 4-Oxopentanoic Acid and Styrene, Compound with Triethylamine.
P–14–0702	7/21/2014	10/19/2014	Shin Etsu Silicones Of America.	(S) Anti-Smudge Coating Agent for Optical Glass.	(G) Perfluoropolyether Compound.

TABLE I—115 PMNS RECEIVED FROM 7/1/14 TO 8/22/14—Continued

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
P–14–0702	7/21/2014	10/19/2014	Shin Etsu Silicones Of America.	(S) Anti-Smudge Coating Agent for Cover Glass.	(G) Perfluoropolyether Compound.
P–14–0702	7/21/2014	10/19/2014	Shin Etsu Silicones Of America.	(S) Anti-Smudge Coating Agent for Anti-Reflection Coating.	(G) Perfluoropolyether Compound.
P–14–0703	7/21/2014	10/19/2014	CBI	(S) Toughener To Prevent Crack Propagation In Adhesives.	(G) Modified Epoxy Resin Polymer.
P–14–0708	7/22/2014	10/20/2014	CBI	(S) Crosslinking Agent; Intermediate.	(G) Epoxidized sucrose polyester resin.
P–14–0711	7/22/2014	10/20/2014	CBI	(S) Reactive Polymer for use in Adhesive Applications.	(G) Polyurethane.
P–14–0712	7/21/2014	10/19/2014	CBI	(G) Petroleum Blend Stock	(G) Plastics, Wastes, Pyrolyzed, Bulk Pyrolysate.
P–14–0712	7/21/2014	10/19/2014	CBI	(G) Component of Grease or Wax Products.	(G) Plastics, Wastes, Pyrolyzed, Bulk Pyrolysate.
P–14–0712	7/21/2014	10/19/2014	CBI	(G) Fuel Blend Stock	(G) Plastics, Wastes, Pyrolyzed, Bulk Pyrolysate.
P–14–0713	7/21/2014	10/19/2014	CBI	(G) Fuel Blend Stock	(G) Plastics, Wastes, Pyrolyzed, Light Distillate.
P–14–0714	7/21/2014	10/19/2014	CBI	(G) Fuel Blend Stock	(G) Plastics, Wastes, Pyrolyzed, Middle Distillate.
P–14–0715	7/21/2014	10/19/2014	CBI	(G) Fuel Blend Stock	(G) Plastics, Wastes, Pyrolyzed, Heavy Distillate.
P–14–0716	7/22/2014	10/20/2014	Allnex USA Inc	(G) Coating Resin	(G) Fatty Acids, Dimers, Polymers with Alkanoic Acid, Alkylene Oxides, Substituted Alkanediol.
P–14–0717	7/23/2014	10/21/2014	Allnex USA Inc	(G) Coating Resin Additive	(G) Substituted Alkanoic Acid Ester, Polymer with Alkanoic Acid Esters, Substituted Alkanenitrile-Initiated.
P–14–0718	7/23/2014	10/21/2014	CBI	(G) Component For Hydrophobic Polymer.	(G) Polyol.
P–14–0724	7/24/2014	10/22/2014	Colonial Chemical, Inc.	(S) Surfactant For Carpet Cleaning; Surfactant For Antifog; Wetting Agent For Fiber Treatment.	(S) D-Glucopyranose, Oligomeric, Decyl Octyl Glycosides, Polymers with Epichlorohydrin, 3-(Dodecyldimethylammonio)-2-Hydroxypropyl Ethers, Chlorides.
P–14–0725	7/24/2014	10/22/2014	Colonial Chemical, Inc.	(S) Surfactant For Carpet Cleaning; Surfactant For Antifog; Wetting Agent For Fiber Treatment.	(S) D-Glucopyranose, Oligomeric, C_{10-16}-Alkyl Glycosides, Polymers with Epichlorohydrin, 3-(Dodecyldimethylammonio)-2-Hyrdoxypropyl Ethers, Chlorides.
P–14–0726	7/24/2014	10/22/2014	Colonial Chemical, Inc.	(S) Surfactant for Carpet Cleaning; Surfactant For Antifog; Wetting Agent For Fiber Treatment.	(S) D-Glucopyranose, Oligomeric, Decyl Octyl Glycosides, Polymers with Epichlorhydrin, (3-Dimethyloctadecylammonio)-2-Hydroxypropyl Ethers, Chlorides.
P–14–0727	7/24/2014	10/22/2014	Colonial Chemical, Inc.	(S) Surfactant For Carpet Cleaning; Surfactant for Antifog; Wetting Agent For Fiber Treatment.	(S) D-Glucopyranose, Oligomeric C_{10-16}-Alkyl Glycosides, Polymers with Epichlorohydrin, 3-(Dimethyloctadecylammonio)-2-Hydroxypropyl Ethers Chlorides.
P–14–0728	7/24/2014	10/22/2014	Colonial Chemical, Inc.	(S) Surfactant For Carpet Cleaning; Surfactant For Antifog; Wetting Agent For Fiber Treatment.	(S) D-Glucopyranose, Oligomeric C_{10-16}-Alkyl Glycosides, Polymers with Epichlorohydrin And Oligomeric D-Glucopyranose Decyl Octyl Glycosides, 2-Hydroxy-3-(Trimethylammonio)Propyl Ethers Chlorides.
P–14–0729	7/24/2014	10/22/2014	CBI	(G) Modifier for Electronic Materials.	(G) Carboxylated Nitrile Rubber.
P–14–0730	7/24/2014	10/22/2014	CBI	(G) Corrosion Inhibitor	(G) Carboxylated Nitrile Rubber.

TABLE I—115 PMNS RECEIVED FROM 7/1/14 TO 8/22/14—Continued

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
P–14–0731	7/24/2014	10/22/2014	CBI	(G) Corrosion Inhibitor	(S) Hexanedioic Acid, Polymer with 2,2′-(Methylimino)Bis[Ethanol], Di-(9z)-9-Octadecenoate (Ester), Compound, With Chloromethane.
P–14–0732	7/25/2014	10/23/2014	CBI	(G) Rape Oil, Reaction Products With Amines.	(G) Rape Oil, Reaction Products with Alkylamine.
P–14–0733	7/25/2014	10/23/2014	CBI	(G) Component Of Inkjet Printer Ink.	(G) Acrylic Modified Polyurethane Resin.
P–14–0734	7/25/2014	10/23/2014	CBI	(G) Contained Use In Energy Production.	(G) Organic Phosphonate Salt.
P–14–0735	7/25/2014	10/23/2014	CBI	(G) Adhesive For Open Non-Descriptive Use.	(G) Ultra Violet Curable Urethane Acrylate.
P–14–0737	7/25/2014	10/23/2014	CBI	(G) Polyurethane Coating	(G) Polyalkylene Ether Polyurethane Prepolymer.
P–14–0738	7/25/2014	10/23/2014	CBI	(G) Polyurethane Coating	(G) Polyalkylene Ether Alkyl Phosphate Polyurethane Prepolymer.
P–14–0739	7/25/2014	10/23/2014	Colonial Chemical, Inc.	(S) Intermediate	(S) D-Glucopyranose, Oligomeric, C_{10-16}-Alkyl Glycosides, Polymers with 1,3-Dichloro-2-Propanol.
P–14–0740	7/25/2014	10/23/2014	Colonial Chemical, Inc.	(S) Intermediate	(S) D-Glucopyranose, Oligomeric, C_{10-16}-Alkyl Glycosides, Polymer with 1,3-Dichloro-2-Propanol.
P–14–0741	7/25/2014	10/23/2014	CBI	(G) Additive For Release Coatings	(G) Siloxanes And Silicones, Di-Me, Me 3-[2-[(1-Oxo-2-Alken-1-Yl)Oxy)]Alkoxy]Propyl, [[Dimethyl[3-[2- [(1-Oxo-2-Alken-1-Yl)Oxy]Alkoxy]Propyl]Silyl]Oxy]-Terminated, Polymers with Chlorotrimethylsilaneiso- Pr Alc. -Sodium Silicate Reaction Products.
P–14–0742	7/28/2014	10/26/2014	CBI	(G) Component In Industrial Electrocoat.	(G) Isocyanic Acid, Polymethylenepolyphenylene Ester, Polymer with 1,2-Propanediol, 2-(2-Butoxyethoxy)Ethanol- And Hydroxyl Amide.
P–14–0743	7/28/2014	10/26/2014	CBI	(G) Component In Industrial Electrocoat.	(G) Isocyanic Acid, Polymethylenepolyphenylene Ester, Polymer with 1,2-Propanediol, 2-Butoxyethanol- And Hydroxyl Amide.
P–14–0744	7/28/2014	10/26/2014	CBI	(G) Component In Industrial Electrocoat.	(G) Isocyanic Acid, Polymethylenepolyphenylene Ester, Polymer with 1,2-Propanediol, Hydroxyl Amide.
P–14–0745	7/28/2014	10/26/2014	CBI	(G) Component In Industrial Electrocoat.	(G) Isocyanic Acid, Polymethylenepolyphenylene Ester, 2-(2-Butoxyethoxy)Ethanol- and Hydroxyl Amide.
P–14–0746	7/28/2014	10/26/2014	CBI	(G) Component In Industrial Electrocoat.	(G) Isocyanic Acid, Polymethylenepolyphenylene Ester, 2-Butoxyethanol- and Hydroxyl Amide.
P–14–0747	7/28/2014	10/26/2014	CBI	(G) Component In Industrial Electrocoat.	(G) Isocyanic Acid, Polymethylenepolyphenylene Ester, Hydroxyl Amide and Methanol-Blocked.
P–14–0748	7/28/2014	10/26/2014	CBI	(S) Dispersing Agent For Paints, Coatings, And Colorants.; Dispersing Agent For Inks.	(G) Alkylpolyglycol Ether Phosphate Ester.

TABLE I—115 PMNS RECEIVED FROM 7/1/14 TO 8/22/14—Continued

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
P–14–0750	7/30/2014	10/28/2014	CBI	(G) Component Of Electrocoat	(G) Formic Acid Salts, Compounds with Epoxy-Cycloalkylamine-Polymer-Hydrolyzed Amino-1,2-Alkanediamine-(Alkylamino)Alcohol Reaction Products.
P–14–0751	7/30/2014	10/28/2014	CBI	(G) Component Of Electrocoat	(G) Acetic Acid Salts, Compounds with Epoxy-Cycloalkylamine-Polymer-Hydrolyzed Amino-1,2-Alkanediamine-(Alkylamino)Alcohol Reaction Products.
P–14–0752	7/30/2014	10/28/2014	CBI	(G) Component Of Electrocoat	(G) Formic Acid Salts, Compounds with [(Aminoalkyl)Imino]Bis[Alcohol]-Epoxy-Cycloalkylamine-Polymer-(Alkylamino)Ethanol Reaction Products.
P–14–0753	7/30/2014	10/28/2014	CBI	(G) Component Of Electrocoat	(G) Acetic Acid Salts, Compounds with [(Aminoalkyl)Imino]Bis[Alcohol]-Epoxy-Cycloalkylamine-Polymer-(Alkylamino)Ethanol Reaction Products.
P–14–0754	7/30/2014	10/28/2014	CBI	(G) Component Of Electrocoat	(G) Formic Acid Salts, Compounds with [(Aminoalkyl)Imino]Bis[Alcohol]-Epoxy-Cycloalkylamine-Polymer-Dialcoholamine Reaction Products.
P–14–0755	7/30/2014	10/28/2014	CBI	(G) Component Of Electrocoat	(G) Acetic Acid Salts, Compounds with [(Aminoalkyl)Imino]Bis[Alcohol]-Epoxy-Cycloalkylamine-Polymer-Dialcoholamine Reaction Products.
P–14–0756	7/30/2014	10/28/2014	CBI	(G) Material for highly dispersive use in consumer products; Component of a consumer product.	(G) Substituted Carboxamide.
P–14–0757	7/30/2014	10/28/2014	CBI	(G) Industrial Adhesive	(G) Methoxylated-Polysilicate.
P–14–0758	7/31/2014	10/29/2014	CBI	(G) Urethane Foam	(G) Polyamine-Based Polyol.
P–14–0759	7/31/2014	10/29/2014	CBI	(G) As an on-site coolant and off-site refinery and fuel blending feed-stock; contained uses.	(G) Pyrolysis Oil Product.
P–14–0760	8/4/2014	11/2/2014	CBI	(G) Component Of Inkjet Ink	(G) Styrene-Methacrylate Copolymer.
P–14–0762	8/4/2014	11/2/2014	CBI	(G) Opacifier	(G) Ethylene Glycol Fatty Acid Esters.
P–14–0763	8/5/2014	11/3/2014	Swan Chemical Inc.	(G) Electronic components	(S) Graphene.
P–14–0765	8/5/2014	11/3/2014	DIC International (USA) LLC.	(G) Surfactant For Ultra Violet Curable Materials.	(G) Fluorinated Acrylate Polymer.
P–14–0766	8/1/2014	10/30/2014	CBI	(G) Additive to improve texture of pigments.	(G) Aluminum Substituted Aminodicarboxylate.
P–14–0767	8/6/2014	11/4/2014	Miwon North America, Inc.	(S) Resins For Industrial Coating	(G) Polyester Acrylate.
P–14–0768	8/6/2014	11/4/2014	DIC International (USA) LLC.	(G) Exterior Coating Polymer	(G) Fluoro Olefine Copolymer.
P–14–0769	8/6/2014	11/4/2014	DIC International (USA) LLC.	(G) Exterior Coatings	(G) Silicone Acrylic/Methacrylic Polymer.
P–14–0770	8/7/2014	11/5/2014	CBI	(G) Electronic Devices	(G) Arylamine Polymer.
P–14–0773	8/8/2014	11/6/2014	Kraft Chemical Company.	(S) Preservative	(S) Methylchloroisothiazolinone Krafton Cg.
P–14–0774	8/11/2014	11/9/2014	CBI	(G) Additive In Coatings And Inks	(G) Fatty Acids, Long Chain Alkyl and Alkenyl, Propoxylated.
P–14–0775	8/12/2014	11/10/2014	Huntsman International LLC.	(S) Flotation Of Mineral Ores In Mining Operations..	(G) Alcohol Ethoxylate.

TABLE I—115 PMNS RECEIVED FROM 7/1/14 TO 8/22/14—Continued

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
P–14–0777	8/12/2014	11/10/2014	Shin Etsu Silicones Of America.	(S) Anti-smudge coating agent for cover glass; anti-smudge coating agent for anti-reflection coating; anti-smudge coating agent for optical glass.	(G) Perfluoropolyether compound.
P–14–0778	8/13/2014	11/11/2014	CBI	(G) Coatings	(G) Polyethylene Glycol Alkyl Ethers.
P–14–0779	8/13/2014	11/11/2014	CBI	(G) Home Care Additive	(S) 2-Propen-1-Aminium, *N,N*-Dimethyl-*N*-2-Propen-1-Yl-, Chloride (1:1), Polymer With 2-Propenoic Acid, Sodium Salt, Peroxydisulfuric Acid ([Ho)S(O)2]2o2) Ammonium Salt (1:2)-Initiated.
P–14–0780	8/13/2014	11/11/2014	Fritz Industries, Inc.	(S) Scale Inhibitor To Prevent Oil Line Piping From Accumulating Scale Deposits.	(G) Neutralized Phosphonic Acid Salt.
P–14–0781	8/13/2014	11/11/2014	Spectra Colors Corporation.	(G) Component Of Industrial Inks And Dyes.	(S) Methanaminium, *N*-[4-[[4-(Dimethylamino)Phenyl] Phenylmethylene]-2,5-Cyclohexadien-1-Ylidene]- *N*-Methyl-, Ethanedioate, Ethanedioate (2:2:1).
P–14–0782	8/14/2014	11/12/2014	CBI	(G) Additives For Plastic Welding	(G) Perylene Derivative.
P–14–0787	8/14/2014	11/12/2014	Shepherd Chemical.	(G) Polymer Additive	(G) Complex of Carboxylic Acids And Polyamino Alcohols.
P–14–0788	8/14/2014	11/12/2014	Shepherd Chemical.	(G) Polymer Additive	(G) Complex of Carboxylic Acids And Polyamino Alcohols.
P–14–0789	8/15/2014	11/13/2014	CBI	(G) Laundry Detergent & Conditioning Additive.	(S) 1-Propanaminium, *N,N,N*-Trimethyl-3-[(2-Methyl-1-Oxo-2-Propenyl)Amino]-, Chloride, Polymer with Methyl 2-Propenoate And 2-Propenoic Acid, Sodium Salt (9ci).
P–14–0790	8/15/2014	11/13/2014	Allnex USA Inc	(G) Coating Resin	(G) Substituted Alkanoic Acid, Polymer with Disubstituted Alkane And Alkoxylated Glycerol Alkanoate, Substituted Alkanoate-Blocked.
P–14–0791	8/17/2014	11/15/2014	CBI	(G) Plastics Additive	(G) Siloxanes And Silicones, Di-Me, 3(2-Hydroxyalkoxy) Alkyl Group-Terminated, Diesters with 2-Oxepanone Homopolymer.
P–14–0792	8/19/2014	11/17/2014	CBI	(G) Agricultural additive	(G) 1,2,3-Propanetriol, Homopolymer, Alkanoate.
P–14–0793	8/19/2014	11/17/2014	CBI	(G) Agricultural additive	(G) 1,2,3-Propanetriol, Homopolymer, Alkanoate.
P–14–0794	8/19/2014	11/17/2014	CBI	(G) Agricultural additive	(G) 1,2,3-Propanetriol, Homopolymer, Alkanoate.
P–14–0798	8/18/2014	11/16/2014	CBI	(G) Process Intermediate	(G) Chlorofluoroalkane.
P–14–0800	8/20/2014	11/18/2014	Rhineland Specialties, Inc.	(G) Open, Non-Dispersive Use	(G) Xanthylium, X-[2-(Alcoxycarbonyl)Phenyl]-Bis(Alkylamino)-Dimethyl-, X′-[X″-[Hydroxy-X‴-[[[[Hydroxy-X⁗-(Phenyldiazenyl)-Sulfo-2-Naphthaleny-l]Amino]Carbonyl]Amino]Sulfo-Naphthalenyl]Diazenyl] Benzoate, Sodium Salt.
P–14–0801	8/22/2014	11/20/2014	CBI	(G) Transportation Undercoat	(G) Polymer of Vegetable Oils, Aliphatic Diols, Aliphatic Polyols, And Aromatic Acids.
P–14–0802	8/22/2014	11/20/2014	H.B.Fuller Company.	(G) Industrial Adhesive	(G) Polyester Polyol with Isopherone Diisocyanate, 2 Hydroxyethyl Methacrylate Blocked.
P–14–0803	8/22/2014	11/20/2014	H.B.Fuller Company.	(G) Industrial adhesive	(G) Polyether Polyol with Isopherone Diisocyanate, 2 Hydroxyethyl Methacrylate Blocked.

TABLE I—115 PMNS RECEIVED FROM 7/1/14 TO 8/22/14—Continued

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
P–14–0804	8/22/2014	11/20/2014	CBI	(S) The PMN substance is contained as a component in a node material in sealed batteries.	(S) Phosphoric acid sodium titanium (4+) (3:1:2).
P–14–0805	8/22/2014	11/20/2014	CBI	(G) Process Intermediate	(G) Chlorofluoroalkene.

In Table II. of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the TMEs received by EPA during this period: The EPA case number assigned to the TME, the date the TME was received by EPA, the projected end date for EPA's review of the TME, the submitting manufacturer/importer, the potential uses identified by the manufacturer/importer in the TME, and the chemical identity.

TABLE II—3 TMES RECEIVED FROM 7/1/14 TO 8/22/14

Case No.	Received date	Projected notice end date	Manufacturer/ importer	Use	Chemical
T–14–0003	3/7/2014	4/21/2014	CBI	(G) Foam suppressant	(G) Substituted acid, electrophilic aromatic subsitituted products.
T–14–0007	7/3/2014	8/17/2014	Clean Chemistry	(S) Destructive use in fuel production.	(G) Organic peroxide.
T–14–0009	8/15/2014	9/29/2014	CBI	(S) Slurry dispersion to be blended with coatings compound and applied to fabric.	(G) Brominated compound.

In Table III. of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the NOCs received by EPA during this period: The EPA case number assigned to the NOC, the date the NOC was received by EPA, the projected end date for EPA's review of the NOC, and chemical identity.

TABLE III—57 NOCS RECEIVED FROM 7/1/14 TO 8/22/14

Case No.	Received date	Commencement notice end date	Chemical
P–11–0526	7/1/2014	6/26/2014	(G) Amphoteric Fluorinated Surfactant.
P–14–0074	7/3/2014	6/17/2014	(G) Amino Acrylate Oligomer.
P–13–0394	7/3/2014	6/23/2014	(S) Phenol, Polymer with 2,2,6-Trimethylbicyclo[3.1.1]Hept-2-Ene, Hydrogenated.
P–13–0927	7/3/2014	6/25/2014	(G) *N*-(Dialkylamino)Alkyl-Dialkylphenyl-Tetrahydrodioxopyrrolopyrrolyl-Benzamide.
P–14–0435	7/3/2014	7/2/2014	(G) Substituted Fatty Acids, Polymers With Alkanedioic Acid, Substituted Carbomonocycles, Alkanediol, Substituted Alkanoate, Compounds with Alkylamine.
P–14–0123	7/5/2014	6/24/2014	(G) Reaction Product of Acrylate and Isocyanate.
P–14–0288	7/7/2014	6/11/2014	(G) Polymer of Aliphatic Hydrocarbon Acrylic Acid Esters, Isocyanic Acid Derivative and Alkyl Perester with Alkyl Amine.
P–14–0466	7/7/2014	7/2/2014	(S) Benzene, 1,4-Bis(1-Chloro-1-Methylethyl)-, Reaction Products With Polyisobutylene, Bis[4-[4-[(1-Oxo-2-Propen-1-Yl)Oxy]Butoxy]Phenyl]-Terminated.
P–10–0331	7/8/2014	4/15/2014	(G) Amine Salt of Vegetable Oil, Polymer with Hydroxy Substituted Carboxylic Acid, Aliphatic Diisocyanate, Tetra Hydroxy Alkane And Polyol.
P–93–0850	7/9/2014	4/25/2014	(G) Polyester Isocyanate Prepolymer.
P–13–0363	7/11/2014	6/24/2014	(G) Alkane Acid, Polymer with Alkanediol, Hexanedioic Acid, 1,6-Hexanediol, .Alpha.-Hydro-.Omega.-Hydroxypoly[Oxy(Methyl-1,2-Ethanediyl)], 1,1′-Methylenebis[4-Isocyanatobenzene], 2-Oxepanone, and Poly(Oxyalkanediyl) Glyceryl Ether.
P–11–0324	7/11/2014	7/8/2014	(G) Siloxanes And Silicones, Methyl Alkyl, Polyester Modified.
P–13–0909	7/11/2014	7/8/2014	(G) Dicarboxylic Acid, Polymer with Alkanediol, Diester with Alkylalcohols.
P–14–0111	7/14/2014	7/1/2014	(G) Polyurethane Polymer.
P–13–0436	7/14/2014	7/3/2014	(S) Cyclohexaneacetic Acid, Methyl Ester.
P–13–0457	7/14/2014	7/3/2014	(S) Cyclopentanecarboxylic Acid, 3-Oxo-2-Pentyl-, Methyl Ester.
P–14–0228	7/14/2014	7/3/2014	(S) Multicomponent Mixture: 1-Cyclohexene-1-Butanol, -Methyl-Carrn 1359994–45–8 1-Butanol, 4-Cyclohexylidene-3-Methyl-Carrn 1491116–15–4.
P–14–0039	7/14/2014	7/11/2014	(G) Quaternized Protein/Silicone Copolymer.
P–13–0384	7/15/2014	7/2/2014	(G) Tetradecene and C_{16} Olefins and Paraffins.
P–14–0346	7/16/2014	6/25/2014	(G) Polyester with Triazine.
P–14–0061	7/16/2014	7/8/2014	(G) Dicarboxylic Acid, Polymer with Alkanediol, Diester with Alkylalcohols.
P–13–0364	7/17/2014	5/2/2014	(G) Alkane Acid, Polymer with 1,6-Hexanediol, .Alpha.-Hydro-.Omega.-Hydroxypoly(Oxy-1,4-Butanediyl), 1,1′-Methylenebis[4-Isocyanatobenzene] and Poly(Oxy-Alkanediyl) Glyceryl Ether.

TABLE III—57 NOCS RECEIVED FROM 7/1/14 TO 8/22/14—Continued

Case No.	Received date	Commencement notice end date	Chemical
P–07–0307	7/17/2014	6/23/2014	(S) Carbonic Acid, Dimethyl Ester, Polymer with 1,4-Butanediol, 1,6-Hexanediol, .Alpha.-Hydro-.Omega.-Hydroxypoly [Oxy(Methyl-1,2-Ethanediyl)] and 1,1′-Methylenebis [4-Isocyanatobenzene].
P–14–0449	7/17/2014	7/2/2014	(G) Polyurethane Dispersion.
P–09–0312	7/21/2014	7/18/2014	(G) Unsaturated Polyester Polymer.
P–14–0157	7/21/2014	7/18/2014	(G) Substituted Carbomonocycles, Polymers with, Haloalkyl Substituted Heteromonocycle, Alkylaldehye-Substituted Carbomonocycle Polymer Glycidyl Ether and Polyalkylenene Glycol, Reaction Products with Alkyl Substituted Glycidyl Ether.
P–14–0286	7/23/2014	7/21/2014	(G) Polyester-Type Polyurethane Hot Melt Resin.
P–14–0357	7/23/2014	7/21/2014	(G) Alkanedioic Acids, Polymer with Substituted Propanediol, Alkanediols, Polyethylene Glycol and MDI.
P–14–0433	7/23/2014	7/21/2014	(G) Isocyanat-Terminated Urethane Prepolymer.
P–12–0017	7/23/2014	7/23/2014	(S) Phosphoric Acid, Iron(2+) Lithium Salt (1:1:1).
P–14–0434	7/24/2014	7/18/2014	(S) 2-Propenoic Acid, 2-Methyl-, Butyl Ester, Polymer with Butyl 2-Propenoate, Ethenylbenzene, 4-Hydroxybutyl 2-Propenoate, 2-Hydroxyethyl 2-Methyl-2-Propenoate, Methyl 2-Methyl-2-Propenoate, 2-Propenoic Acid and Rel-(1r,2r,4r)-1,7,7-Trimethylbicyclo[2.2.1]Hept-2-Yl 2-Methyl-2-Propenoate.
P–14–0332	7/24/2014	7/21/2014	(G) Polyester/Polyether-Type-Polyurethane Resin.
P–13–0633	7/25/2014	7/7/2014	(G) Siloxanes and Silicones, Di-Alkyl, 3-(2-Substituted) Alkyl Group-Terminated, Polymers with 1,4-Alkanediol, Alkyl Diisocyanate, Di-Alkyl Carbonate, 2-Substituted Heteromonocycle, 1,6-Alkanediol, Hydrazine, 3-Substituted-2-(Substituted)-2-Alkylpropanoic Acid and Trialkyl Carbomonocycle Diisocyanate, Compounds with Trialkylamine.
P–13–0676	7/25/2014	7/7/2014	(G) 1,3-Dioxolan-2-One, Polymer with 5-Substituted-1,3,3-Trialkylmonocarbocyclemethanamine, 1,4-Alkanediol, 1,2-Alkanediol, 1,1′-Alkylenebis[4-Substitutedmonocarbocycle] and 2-Alkyl-1,3-Alkanediol.
P–14–0095	7/25/2014	7/13/2014	(G) Dihydroxyalkyl Alkanol, Polymer with Disubstituted Alkane, Ketoxime-Blocked.
P–14–0374	7/28/2014	7/18/2014	(G) Sulfurized Fatty Acid Derivative.
P–13–0367	7/29/2014	7/11/2014	(G) Carboxylated Phosphonated Allyl Sulphonate Polymer.
P–13–0255	7/30/2014	7/29/2014	(S) Benzene, 1-(Decyloxy)-2-(1-Methylpropyl)-4-(Triphenylmethyl)-.
P–14–0296	8/1/2014	7/16/2014	(S) Alkenes, C_{10-16} Alpha-, Mixed with (6e)-7, 11-Dimethyl-3-Methylene-1,6,10-Dodecatriene, Dimers and Trimers, Hydrogenated.
P–14–0297	8/1/2014	7/16/2014	(S) Alkenes, C_{10-16} -, Mixed with (6e)-7,11-Dimethyl-3-Methylene-1,6,10-Dodecatriene, Dimers, Tetramers and Trimers, Hydrogenated.
P–14–0298	8/1/2014	7/16/2014	(S) Alkenes, C_{10-16} -, Mixed with (6e)-7,11-Dimethyl-3-Methylene-1,6,10-Dodecatriene, Tetramers and Trimers, Hydrogenated.
P–14–0299	8/1/2014	7/16/2014	(S) Alkenes, C_{10-16} -, Reaction Products with (6e)-7,11-Dimethyl-3-Methylene-1,6,10-Dodecatriene, Hydrogenated.
P–13–0154	8/5/2014	7/8/2014	(G) Substituted Carbomonocycle Boron Salt.
P–13–0155	8/5/2014	7/8/2014	(G) Substituted Carbomonocycle Derivative Metal.
P–14–0517	8/7/2014	7/27/2014	(G) Aliphatic Multifunctional Urethane Acrylate.
P–10–0445	8/8/2014	8/6/2014	(G) Solvent-Based Acrylic Resin.
P–14–0416	8/11/2014	7/29/2014	(G) Polyurethane.
P–14–0130	8/12/2014	8/1/2014	(S) Alkanes C_{15-19} Branched and Linear.
P–14–0131	8/12/2014	8/1/2014	(S) Alkanes C_{18-24} Branched and Linear.
P–14–0137	8/12/2014	8/1/2014	(S) Alkanes C_{14-16} Branched and Linear.
P–14–0538	8/12/2014	8/12/2014	(S) 2-Propenoic Acid, 2-Methyl, C_{9-11}-Branched Alkyl Esters, Polymers with Bu Methacrylate, 2-Butoxyethyl Methacrylate, C_{12-15}-Branched and Linear Alkyl Methacrylate, Cetyl Methacrylate, Hydroxy-Terminated Hydrogenated Polybutadiene Monomethacrylate and Stearyl Methacrylate.
P–13–0810	8/13/2014	8/6/2014	(G) Cycloalkylamino Oleylalkyl Alkylamide Acid Salt.
P–09–0099	8/14/2014	7/18/2014	(G) Fluoroethylene Vinyl Copolymer.
P–14–0396	8/20/2014	8/19/2014	(G) Polymer Of Vegetable Oil, Aliphatic Polyols, and Aromatic Acids.
P–14–0511	8/21/2014	8/19/2014	(S) Lignin, Alkali,2- Hydroxypropylether.
P–01–0357	8/22/2014	8/5/2014	(G) *N,N'* Substituted Aniline Sulfonic Acid, Compound with 2,2′,2″-Nitrilotris [Ethanol].
P–14–0539	8/22/2014	8/6/2014	(G) Siloxanes and Silicones, Di-Me, 3-(2-Hydroxyethoxy)Alkyl Group-Terminated, Polymers with 1,4-Alkanediol, Di-Et Carbonate, Alkene Glycol, 1,6-Alkanediol And 1,1-Alkylenebis[4-Isocyanatocycloalkane].

If you are interested in information that is not included in these tables, you may contact EPA as described in Unit III. to access additional non-CBI information that may be available.

List of Subjects

Environmental protection, Chemicals, Hazardous substances, Imports, Notice of commencement, Premanufacturer, Reporting and recordkeeping requirements, Test marketing exemptions.

Dated: September 9, 2014.

Darryl S. Ballard,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2014–22282 Filed 9–18–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9017–1]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/*.

Weekly receipt of Environmental Impact Statements

Filed 09/08/2014 Through 09/12/2014

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html*.

EIS No. 20140264, Draft Supplement, FHWA, IL, US 30 (FAP 309), From IL–136 to IL–40, Comment Period Ends: 11/03/2014, Contact: Catherine A. Batey 217–492–4640.

EIS No. 20140265, Final EIS, USFS, OR, Oregon Dunes NRA Management Area 10 (C) Designated Routes Project, Review Period Ends: 11/03/2014, Contact: Angela Morris 541–271–6040.

EIS No. 20140266, Draft EIS, FRA, IL, Chicago—Detroit/Pontiac Passenger Rail Corridor Program, Comment Period Ends: 11/03/2014, Contact: Andrea Martin 202–493–6201.

EIS No. 20140267, Draft EIS, WAPA, CO, Estes to Flatiron Transmission Lines Rebuild Project (DOE/EIS–0483), Comment Period Ends: 11/03/2014, Contact: Mark Wieringa 720–962–7448.

EIS No. 20140268, Final EIS, USACE, KS, Removal and Disposal of Sediment and Restoration of Water Storage at John Redmond Reservoir, Review Period Ends: 10/20/2014, Contact: David Gade 918–669–7579.

EIS No. 20140269, Final Supplement, BOEM, 00, Gulf of Mexico OCS Oil and Gas Lease Sales: 2015–2017, Central Planning Area Lease Sales 235, 241, and 247, Review Period Ends: 10/20/2014, Contact: Mr. Gary D. Goeke 504–736–3233.

EIS No. 20140270, Final EIS, NRC, 00, Generic—Continued Storage of Spent Nuclear Fuel NUREG–2157, Review Period Ends: 10/20/2014, Contact: Sarah L. Lopas 301–287–0675.

EIS No. 20140271, Final EIS, FHWA, WI, West Waukesha Bypass, Review Period Ends: 11/18/2014, Contact: George Poirier 608–829–7500.

Amended Notices

EIS No. 20140241, Draft Supplement, FHWA, CO, I–70 East, from I–25 to Tower Road, Comment Period Ends: 10/31/2014, Contact: Chris Horn 720–963–3017. Revision to FR Notice Published 09/05/2014; Extending Comment Period from 10/17/2014 to 10/31/2014.

Dated: September 16, 2014.

Cliff Rader,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2014–22400 Filed 9–18–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R10–OW–2014–0505; FRL–9916–89–Region 10]

Announcement To Extend the Period To Evaluate Public Comments Received on the Proposed Determination for the Pebble Deposit Area, Southwest Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension.

SUMMARY: On July 21, 2014, EPA published in the **Federal Register** (79 FR 42314) a Notice of Proposed Determination, under Section 404(c) of the Clean Water Act, to restrict the use of certain waters in the South Fork Koktuli River, North Fork Koktuli River, and Upper Talarik Creek watersheds in Southwest Alaska as disposal sites for dredged or fill material associated with mining the Pebble deposit, a copper-, gold-, and molybdenum-bearing ore body. The notice established a public comment period that ended September 19, 2014. EPA also held seven hearings throughout Southwest Alaska during the week of August 11, 2014. More than 830 community members participated in the seven hearings, more than 300 of whom provided oral statements. In addition to testimony taken at the hearings, as of September 11, 2014, EPA had received over 155,000 written comments. EPA expects that number will be significantly larger at the conclusion of the comment period on September 19, 2014.

EPA's regulations require that, within 30 days after the conclusion of public hearings (but not before the end of the comment period), the Regional Administrator either withdraw the Proposed Determination or prepare a Recommended Determination (40 CFR 231.5(a)). However, upon a showing of good cause, EPA may extend this time requirement (40 CFR 231.8).

To allow full consideration of the extensive administrative record, including public comments, EPA finds there is good cause to extend the time period provided in 40 CFR 231.5(a). The time period to either withdraw the Proposed Determination or to prepare the Recommended Determination is therefore extended until no later than February 4, 2015.

Dated: September 11, 2014.

Michelle L. Pirzadeh,

Acting Regional Administrator, EPA Region 10.

[FR Doc. 2014–22420 Filed 9–18–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[WC Docket No. 14–28; DA 14–1322]

Panelist Information for Open Internet Roundtables

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission released a notice announcing panelist names and other information for a series of roundtables. The intended effect of this document is to make the public aware of the event and the agenda for the roundtables.

DATES: Friday, September 19, 2014, 10:00 a.m.–4:30 p.m.

ADDRESSES: Federal Communications Commission, Commission Meeting Room (TW–C305), 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Stephen Ruckman, Enforcement Bureau, at (202) 418–8192 or by email at *Stephen.Ruckman@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document in WC Docket No. 14–28, DA 14–1322 released September 12, 2014. The complete text in this document is available for public inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via the Internet at *http://www.bcpiweb.com.* It is available on the Commission's Web site at *http://www.fcc.gov.*

The roundtables will be free and open to the public, and the FCC also will stream them live at *http://www.fcc.gov/live.* The location of the roundtables will be the Commission Meeting Room (TW–C305), 445 12th Street SW., Washington, DC 20554. The FCC will make available an overflow room for those in-person attendees who cannot be accommodated in the Commission Meeting Room. We advise persons planning to attend the roundtables in person to leave sufficient time to enter through building security.

The FCC encourages members of the public to submit suggested questions in advance and during the roundtables by email to *roundtables@fcc.gov* or on Twitter using the hashtag #FCCRoundtables. Please note that by submitting a question, you will be making a filing in an official FCC proceeding. All information submitted, including names, addresses, and other personal information contained in the message, may be publicly available online.

Reasonable accommodations for people with disabilities are available upon request. The request should include a detailed description of the accommodation needed and contact information. We ask that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Proposed Agenda

The Enforcement Bureau and the Office of Strategic Planning and Policy Analysis of the Federal Communications Commission (FCC) provide panelist names and other information about two events in the Open Internet roundtable series: ''Effective Enforcement of Open Internet Requirements'' and ''Technological Aspects of an Open Internet,'' which will both take place on September 19, 2014. These workshops were previously announced in a Public Notice. At that time, it was unclear whether the workshop would be a ''meeting'' of the Commission. As such, that Public Notice was not published in the **Federal Register**. This Notice shall serve as notice that a quorum of Commissioners may be present at one or more roundtables, in compliance with Part 0, Subpart F of the Commission's rules. This Notice does not, however, change the ''permit-but-disclose'' status of the *Open Internet* proceeding under the Commission's *ex parte* rules.

Effective Enforcement of Open Internet Requirements

10:00–10:15 a.m. Welcome and Opening Remarks

10:15–12:30 p.m. Effective Enforcement of Open Internet Requirements

This roundtable will consider ways to enforce effectively the proposed new Open Internet rules, exploring the utility of various current and proposed enforcement tools in the Open Internet context and discussing how to design fair and accessible FCC dispute resolution processes for open Internet concerns.

Panelists

Rick Chessen, Senior Vice President, Law & Regulatory Policy, NCTA
Steve Coran, FCC Counsel, WISPA
Susan Crawford, Visiting Professor, Harvard Law School & Co-Director, Berkman Center for Internet & Society
Christine Hines, Consumer and Civil Justice Counsel, Public Citizen
Chris Riley, Senior Policy Engineer, Mozilla
Michal Rosenn, Deputy General Counsel, Kickstarter

Moderators

Travis LeBlanc, Chief, Enforcement Bureau, FCC
Paula Blizzard, Deputy Bureau Chief, Enforcement Bureau, FCC

12:30–1:30 p.m. Lunch Break

Technological Aspects of an Open Internet

1:30–1:45 p.m. Welcome and Opening Remarks

1:45–4:30 p.m. Technological Aspects of an Open Internet

This roundtable will consider the technical aspects of ensuring an Open Internet, including questions of scope, transparency, blocking, mobile networks, and reasonable network management.

Panelists

Don Bowman, Chief Technology Officer, Sandvine
Al Jette, Head of North American Industry Environment, Nokia Networks
Jim Kurose, Distinguished Professor of Computer Science, University of Massachusetts Amherst
Klara Nahrstedt, Ralph and Catherine Fisher Professor, Department of Computer Science, University of Illinois at Urbana-Champaign
Andrew Pile, Chief Technology Officer, Vimeo
Hans-Juergen Schmidtke, Vice President, Product Management, Juniper Networks
Stephen Wolff, Interim Vice President & Chief Technology Officer, Internet2

Moderators

Scott Jordan, Chief Technology Officer, FCC
Henning Schulzrinne, Technology Advisor and former Chief Technology Officer, FCC

Federal Communications Commission.

Travis LeBlanc,

Chief, Enforcement Bureau.

[FR Doc. 2014–22433 Filed 9–18–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10309, Pierce Commercial Bank, Tacoma, WA

Notice is hereby given that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for Pierce Commercial Bank, Tacoma,WA. (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of Pierce Commercial Bank on 11/05/2010. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to:

Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 32.1, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: September 15, 2014.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2014–22299 Filed 9–18–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

The Commission gives notice that the following applicants have filed an application for an Ocean Transportation Intermediary (OTI) license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF) pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101). Notice is also given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a licensee.

Interested persons may contact the Office of Ocean Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573, by telephone at (202) 523–5843 or by email at *OTI@fmc.gov.*

CMX Global Logistics, LLC (NVO & OFF), 841 Apollo Street, Suite 450, El Segundo, CA 90245. Officers: Cody N. Shawe, Manager (QI), Grant J. Seeley, Member/Manager. Application Type: QI Change

Felix Logistics, Inc. (NVO & OFF), 6281 Beach Blvd., Suite 312, Buena Park, CA 90621. Officer: Brian B. Kim, President (QI). Application Type: New NVO & OFF License

Flexport International LLC (NVO & OFF), 300 Brannan Street, Suite 510, San Francisco, CA 94107. Officers: Michael Baekboel, Manager (QI), Ryan Petersen, Manager. Application Type: New NVO & OFF License

Focuscargo Inc dba Action Cargo Inc (NVO & OFF), 2712 NW 112 Avenue, Miami, FL 33172. Officer: Justo Aguiar, President (QI). Application Type: New NVO & OFF License

Hopeway Inc dba Hopeway Logistics Co (NVO & OFF), 17870 Castleton Street, Suite 118, City of Industry, CA 91748. Officers: Qiu Sheng (a.k.a. David) Zhang, Vice President (QI), Chun Lin, CEO. Application Type: New NVO & OFF License

VDS USA Inc (NVO), 18321 S. Western Avenue, Suite K, Gardena, CA 90248. Officers: Dongwon Lee, CEO (QI), Chang Suk Oh, Secretary. Application Type: New NVO License

By the Commission.

Dated: September 12, 2014.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2014–22387 Filed 9–18–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

The Commission gives notice that the following Ocean Transportation Intermediary license has been reissued pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101).

License No.: 024464F.
Name: Seahorse Forwarding Ltd.
Address: One Euclid Road, Fort Lee, NJ 07024.
Date Reissued: August 11, 2014.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2014–22384 Filed 9–18–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations and Terminations

The Commission gives notice that the following Ocean Transportation Intermediary licenses have been revoked or terminated for the reason indicated pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101) effective on the date shown.

License No.: 017973NF.
Name: C D S Overseas, Inc.
Address: 440 South Hindry Avenue, Suite A, Inglewood, CA 90301.
Date Revoked: September 4, 2014.
Reason: Failed to maintain valid bonds.

License No.: 019710N.
Name: Menuet Maritime Services, Inc. dba U-Box Worldwide.
Address: 10900 Brittmore Drive, Suite B, Houston, TX 77041.
Date Revoked: August 29, 2014.
Reason: Failed to maintain a valid bond.

License No.: 022452NF.
Name: Ocean Cargo Express Lines, LLC.
Address: 11892 Speedway Blvd., Hardeeville, SC 29927.
Date Revoked: August 31, 2014.
Reason: Failed to maintain valid bonds.

License No.: 022604F.
Name: Tri-Vi-U.S. Logistics Ltd.
Address: 170 East Sunrise Highway, Valley Stream, NY 11580.
Date Revoked: August 27, 2014.
Reason: Failed to maintain a valid bond.

License No.: 022930NF.
Name: Sea Horse Express Inc.
Address: 69 Le Fante Way, Bayonne, NJ 07002.
Date Revoked: September 5, 2014.
Reason: Failed to maintain valid bonds.

License No.: 023750N.
Name: Bluesea Logistics Corporation.
Address: 201 W. Garvey Avenue, Suite 102–390, Monterey Park, CA 91754.
Date Revoked: August 20, 2014.
Reason: Failed to maintain a valid bond.

License No.: 024096N.
Name: LEL Caribe, LLC dba C & F Worldwide Logistics.
Address: 2098 West Chester Pike, Suite 201, Broomall, PA 19008.
Date Revoked: September 1, 2014.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

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FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations and Terminations

The Commission gives notice that the following Ocean Transportation Intermediary licenses have been revoked or terminated for the reason indicated pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101) effective on the date shown.

License No.: 017258NF.
Name: Skycel, Inc. dba Econcargo.
Address: 6305 NW. 99th Avenue, Doral, FL 33178.
Dates Revoked: August 14, 2014 (NVOCC); July 11, 2014 (OFF).
Reason: Failed to maintain valid bonds.

License No.: 019113N.
Name: Amoy International, LLC dba Amoy Line dba VMS Lines.
Address: 14145 Proctor Avenue, Suite 14, City of Industry, CA 91746.
Date Revoked: August 22, 2014.
Reason: Failed to maintain a valid bond.

License No.: 021579N.
Name: LCL Logistics, LLC.
Address: 2325 South Otis Street, Santa Ana, CA 92705.
Date Revoked: August 23, 2014.
Reason: Failed to maintain a valid bond.

License No.: 022017N.
Name: Shinyoung Express Inc.
Address: 1490 Beachey Place, Carson, CA 90746.
Date Revoked: August 14, 2014.
Reason: Failed to maintain a valid bond.

License No.: 024270N.
Name: NMC Logistics Solutions, Inc.
Address: 9910 NW 21st Street, Doral, FL 33172.
Date Revoked: August 22, 2014.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2014–22385 Filed 9–18–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), pursuant to 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before November 18, 2014.

ADDRESSES: You may submit comments, identified by *FR 3063a or b (government-administered, general-use prepaid cards);* by any of the following methods:

- Agency Web site: *http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Email: *regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- FAX: (202) 452–3819 or (202) 452–3102.
- Mail: Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets NW.) between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Acting Clearance Officer—John Schmidt—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection 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.

Proposal to approve under OMB delegated authority the extension for three years of the following information collection, with revision:

Report title: Government-administered, General-use Prepaid Card Surveys.[1]

Agency form number: FR 3063a and FR 3063b.

OMB control number: 7100–0343.

Frequency: Annual.

Reporters: Issuers of government-administered, general-use prepaid cards (FR 3063a) and governments that administer general-use prepaid card programs (FR 3063b).

Estimated annual reporting hours: FR 3063a: 375 hours; FR 3063b: 2,700 hours.

Estimated average hours per response: FR 3063a: 25 hours; FR 3063b: 15 hours.

Number of respondents: FR 3063a: 15; FR 3063b: 180.

General description of report: This information collection is authorized by subsection 920(a) of the Electronic Fund Transfer Act (EFTA), which was amended by section 1075(a) of the Dodd-Frank Act. 15 U.S.C. § 1693o–2. EFTA Section 920(a) requires the Board to submit an annual report to the Congress on the prevalence of the use of general-use prepaid cards in Federal, State, or local government-administered payment programs and on the interchange transaction fees and cardholder fees charged with respect to the use of such general-use prepaid cards. 15 U.S.C. 1693o–2(a)(7)(D). EFTA Section 920(a) also provides the Board with authority to require issuers to

[1] The issuer and government surveys, supporting statement, and other documentation are available on the Board's public Web site at: *http://www.federalreserve.gov/apps/reportforms/review.aspx.*

provide information to enable the Board to carry out the provisions of the subsection. 15 U.S.C. 1693o–2(a)(3)(B). The obligation of issuers to respond to the issuer survey (FR 3063a) is mandatory. However, the obligation of state and local governments to respond to the government survey (FR 3063b) is voluntary. A limited amount of information collected on the FR 3063a issuer survey is publicly available, and thus, is not accorded confidential treatment. However, most of the information collected on the FR 3063a issuer survey is not publicly available and may be kept confidential as explained herein. Data collected by the issuer survey may be kept confidential under exemption (b)(4) of the Freedom of Information Act (FOIA), which exempts from disclosure ''trade secrets and commercial or financial information obtained from a person and privileged or confidential.'' 5 U.S.C. 552(b)(4). Such data may be kept confidential under exemption 4 if the release of data would cause substantial harm to the competitive position of the issuer. For example, certain issuer survey responses would likely contain information related to an organization's revenue structure and other proprietary and commercial information and the release of such information would cause substantial harm to the competitive position of the issuer and could therefore be kept confidential under exemption 4. The information collected on the government survey (FR 3063b) is not accorded confidential treatment.

Abstract: Section 1075(a) of the Dodd-Frank Act provides that the Board shall provide annually a report to the Congress regarding the prevalence of the use of general-use prepaid cards in federal, state, and local government-administered payment programs, and the interchange and cardholder fees charged with respect to the use of such prepaid cards.[2] Section 1075(a) of the Dodd-Frank Act also provides the Board with authority to require card issuers to respond to information requests as may be necessary to carry out the provisions of the section.

Current Actions: The Board proposes to revise the issuer survey (FR 3063a) to collect data on the number of government programs broken out by category of disbursement program; net funds loaded onto prepaid cards broken out by gross funds loaded and funds voided or returned to government offices, as well as by funds loaded pursuant to government-administered programs and funds loaded from other sources; the average daily value of funds outstanding; the value and volume of ATM withdrawals broken out by proprietary (in-network) ATMs and nonproprietary (out-of-network) ATMs; the amount reimbursed cardholders for fees they incurred at nonproprietary ATMs; the value/volume of over-the-counter at-bank (teller) withdrawals as well as fees assessed to cardholders by third party banks for these withdrawals; the value of settled purchase transactions and interchange fee revenue broken out by transactions that are exempt and not exempt from the interchange fee standards of Regulation II; and sources of revenue collected by issuers other than interchange and cardholder fees. The Board also proposes to combine current sections II and III as well as current sections XIII and IX. In addition, the Board proposes that issuers not be required to complete a separate survey for each program. Rather, issuers would be required to complete one survey for federal programs in aggregate and one survey for state/local programs in aggregate.

The Board proposes to revise the government survey (FR 3063b) to collect data on the number of government programs reported in the survey. In addition, the Board proposes to requests public comment on the potential effects of repealing the FR 3063b survey.

Lastly, the Board proposes to make several clarifications to both surveys and to delete questions that are no longer relevant from both surveys.

Issuer Survey (FR 3063a)

The issuer survey is required for depository institutions that issue general-use prepaid cards for federal, state, or local government-administered payment programs. The survey requests information on cards associated with accounts domiciled in the United States, the District of Columbia, and U.S. territories.

The current survey (last administered in early 2014) collects information separately for each government-administered payment program for which the depository institution is the issuer of general-use prepaid cards. The current survey collects information on card programs using two types of authentication mechanisms: Dual-message transactions and single-message transactions.[3] The cards issued pursuant to government-administered payment programs may be either reloadable or non-reloadable.

The current issuer survey comprises nine sections:

I. *Government-Administered, General-Use Prepaid Card Program Information:* Respondents report summary information on card programs covered in the response including the name of the program(s), whether the response covers federal or state/local programs, the geographic areas where cards have been issued, the name of the sponsoring government agency, the type of payment program, and the number of recipients receiving payments on prepaid cards.

II. *Government-Administered Payment Cards:* Respondents report summary information on the number of cards outstanding and the allocation of cards outstanding between cards that can be used on both dual-message and single-message networks, cards that can be used exclusively on dual-message networks, and cards that can be used on exclusively single-message networks. Respondents also report the number of cards that can be used on two or more unaffiliated networks.

III. *Funding:* Respondents report the value of funds loaded into prepaid card accounts and funds outstanding on prepaid card accounts.

IV. *ATM Transactions:* Respondents report summary information on the number of cards outstanding at year-end that can be used to make ATM cash withdrawals, the volume and value of ATM cash withdrawals, and the ATM fees assessed to cardholders by ATM operators of nonproprietary (out-of-network) ATMs.

V. *Purchase Transactions:* Respondents report summary information on the volume and value of settled purchase transactions and the allocation of the volume and value of settled purchase transactions between single-message transactions and dual-message transactions.

VI. *Fees Paid by Issuers:* Respondents report the fees paid by issuers to third parties for ATM cash withdrawals and over-the-counter (OTC) at-bank (teller) cash withdrawals.

VII. *Issuer Revenue: Interchange Fees:* Respondents report interchange fee revenue received on settled purchase transactions and the allocation of interchange fee revenue received on dual-message transactions and single-message transactions.

VIII. *Issuer Revenue: Cardholder Fees:* Respondents report total revenue received on all fees assessed to cardholders and the allocation revenue received from cardholder fees between purchase transaction fees, ATM fees,

[2] 15 U.S.C. 1693o–2(a)(7)(D).

[3] In dual-message transactions, authorization information is carried in one message and clearing information is carried in a separate message (typically, these transactions are authenticated with a signature). In single-message transactions, authorization and clearing information is carried in one message (typically, these transactions are authenticated with a PIN). General-use prepaid card transactions may use either method (although dual-message transactions are more common).

OTC fees, account servicing fees, routine monthly fees, customer service inquiry fees, penalty fees, overdraft fees, and all other cardholder fees.

IX. *Fees Assessed to Cardholders:* Respondents provide summary information on fees assessed to cardholders, including purchase transaction fees, ATM fees, OTC fees, account servicing fees, routine monthly fees, customer service inquiry fees, penalty fees, overdraft fees and all other cardholder fees.

Proposed Revisions to Issuer Survey (FR 3063a)

The Board proposes to modify the survey reporting structure to reduce burden on respondents. Currently, a respondent is required to complete the survey for each individual government-administered payment program for which the respondent is the prepaid card issuer. The Board has modified the survey instrument so that issuers will be required to complete the survey only twice: Once for all federal programs (in aggregate) and once for all state/local programs (in aggregate). The Board believes that the proposed structure will reduce reporting burden without significantly compromising the value of the data collected. In addition, the Board proposes to streamline the survey by combining relevant questions in current sections II and III and combining relevant questions in current sections XIII and IX. A section-by-section description of the changes is provided below.

Section I: Program Information (Renamed From ''Government-Administered, General-Use Prepaid Card Program Information'')

Questions 1 and 2 (revised survey): Number of government-administered payment program(s) covered in this response. The Board proposes to add question 1 (to the revised survey) to obtain an accurate count of the government-administered payment programs on which issuers will report. The Board also proposes to add question 2 (to the revised survey) which requests a breakout of the number of programs between program categories (such as child support, payroll, and so on). This breakout replaces question 5 (of the current survey) which asks issuers to indicate (via a check box) categories on an individual program basis. Questions 1 and 2 (of the revised survey) support the Board's proposed revision to the reporting structure which would allow issuers to provide aggregate responses for their programs.

Question 2 (current survey): Does this response cover a federal or a state/local program(s)? The Board proposes to delete question 2 (of the current survey). Under the proposed revision to the reporting structure, respondents would complete the survey once for federal programs and once for state/local programs.

Question 3 (current survey): Jurisdiction(s)—Geographic area in which the government-administered, general-use prepaid cards have been issued.

The Board proposes to delete question 3 (of the current survey). The Board believes that the information captured in this question is no longer necessary to support the Board's annual report.

Question 3 (revised survey): Name of program and sponsoring government agency. The Board proposes to combine question 1 (of the current survey) which asks for the name of the government-administered payment program and question 4 (of the current survey) which requests the name of the sponsoring government agency (the agency administering a government-administered payment program). The combined question 3 (of the proposed survey) provides a grid of input boxes so that a respondent can enter information separately for each government program included in a response. This new format supports the Board's proposed revision to the reporting structure which would allow issuers to provide aggregate responses for their programs.

Question 6 (current survey): Recipients receiving payments on government-administered, general-use prepaid cards. The Board proposes to delete question 6 (of the current survey). A cardholder may receive payments on behalf of multiple individuals. As a result, an issuing bank is sometimes unable to provide an accurate count of all individuals receiving payments.

Section II: Government-Administered Payment Cards (Current Survey)—(Deleted)

The Board proposes to delete section II (of the current survey), which captures the number of prepaid cards outstanding, and a breakout of this number between cards that can be used on single-message networks, dual-message networks, and two or more unaffiliated networks. The question requesting the total number of cards outstanding will be moved to the section of the revised survey titled ''Card Funding.'' The remaining questions in section II (of the current survey), which focus on the network functionality of the cards outstanding, will be deleted.

In previous reports to the Congress on government-administered, general-use prepaid cards, the Board reported on interchange fee statistics broken out by single-message and dual-message transactions. Interchange fee statistics for the broader population of general-use prepaid cards by network type are published in the Board's other reports on covered debit card issuers and payment card networks. Because interchange fees by network type do not vary substantially between government-administered, general-use prepaid cards and the broader population of exempt general-use prepaid cards, the Board believes that it is no longer necessary to collect network-related information in this survey.

Section II: Card Funding (Renumbered From ''Section III'' and Renamed From ''Funding'')

Question 1 (revised survey): Government-administered, general-use prepaid cards outstanding. As discussed above, the Board proposes to move this question from the deleted section titled ''Government-Administered Payment Cards''.

Questions 2 and 3 (revised survey): Net funds loaded onto government-administered, general-use prepaid cards. Question 1 (of the current survey) asks for the funds loaded onto government-administered, general-use prepaid cards. The Board is aware that program funds initially made available to a cardholder may subsequently be removed from the cardholder's account; specifically, funds may be voided or returned to the government agency or other funding entity. Funds may be removed from an account due to unused balances after a specified period of time, long-term account inactivity, or some other reason (unrelated to fees). The Board proposes to clarify the current question on funding by asking for the net funds loaded onto cards (excluding funds voided or returned) in question 2 (of the revised survey) and for a breakout of net funds loaded onto cards between gross funds loaded and funds voided or returned in question 3 (of the revised survey). In addition to increasing survey clarity, this breakout would allow the Board to calculate additional prevalence-of-use metrics.

Question 4 (revised survey): Net funds loaded by funding source. The Board proposes to add question 4 (to the revised survey), which requests a breakout of the net funds loaded onto government-administered, general-use prepaid cards between funds loaded pursuant to various categories of government-administered payment programs and funds loaded from other

sources. Collecting funding information by program category type supports the Board's proposed revision to the reporting structure which would allow issuers to provide aggregate responses for their programs. Further, for a covered issuer to receive the exemption from the interchange fee standards of Regulation II with respect to cards issued under a government-administered payment program, cardholders may use their cards only to transfer or debit funds, monetary value, or other assets that have been provided pursuant to the program. Question 4 (of the revised survey) would allow the Board to better understand whether (and if so, the extent to which) issuers fulfill this requirement to receive the exemption.

Question 6 (revised survey): Average daily value of funds outstanding. The Board proposes to add question 6 (to the revised survey) to capture average daily balances on government-administered general-use prepaid cards. Question 6 will allow the Board to calculate additional prevalence-of-use metrics.

Section III: Cash Withdrawals (Renumbered From ''Section IV'' Renamed From ''ATM Transactions'')

Questions 1: (current survey): Government-administered, general-use prepaid cards outstanding that can be used to make ATM cash withdrawals. The Board proposes to delete question 1 (of the current survey) because it is no longer needed for the annual report.

Question 2 (revised survey): Total ATM cash withdrawals. The Board proposes to add question 2 (to the revised survey) to obtain a breakout of the total ATM cash withdrawal volume and value between withdrawals at proprietary (in-network) and nonproprietary (out-of-network) ATMs. This breakout would allow the Board to calculate new prevalence-of-use metrics related to ATM transactions and to calculate ATM-fee metrics more precisely.

Question 3a (revised survey): ATM fees reimbursed to cardholders. The Board proposes to add question 3a (to the revised survey) to capture the value of reimbursements made to cardholders by issuers for ATM fees assessed by ATM operators of nonproprietary (out-of-network) ATMs for cash withdrawals. Question 3a would allow the Board to estimate cardholder fee metrics more precisely.

Questions 4–6 (revised survey): Over-the-counter at-bank (teller) cash withdrawals. The Board proposes to add questions 4–6 (to the revised survey) to capture information related to over-the-counter at-bank (teller) cash withdrawals. These questions mirror questions 1–3 (of the revised survey) on ATM withdrawals. Information on over-the-counter cash withdrawals would allow the Board to calculate additional prevalence of use metrics and estimate fee metrics more precisely.

Section IV: Purchase Transactions (Renumbered From ''Section V'')

Question 1 (revised survey): Settled purchase transactions. The Board proposes to specify that cash back amounts should be included in the value of settled purchase transactions. The Board also proposes to add question 1a.1 (to the revised survey) to request a breakout of the value of transactions that included cash back between the purchase value and cash-back value. The Board believes the new language and additional question will enhance survey clarity. Further, the breakout of the purchase and cash-back amounts will allow the Board to calculate additional prevalence-of-use metrics.

Question 2 (current survey): Settled purchase transactions by network type. The Board proposes to delete question 2 (of the current survey) which asks for a breakout of total settled purchase transactions (volume and value) between single-message transactions and dual-message transactions. As discussed above in the paragraph titled ''Section II: Government-Administered Payment Cards (current survey),'' the Board believes that it is no longer necessary to collect network-related information in this survey.

Question 2 (revised survey): Exempt vs. non-exempt transactions. The Board proposes to add question 2 (to the revised survey) to break out total settled purchase transactions (volume and value) between transactions that are exempt and not exempt from the interchange fee standards of Regulation II.

An electronic debit transaction made using a general-use prepaid card that has been provided pursuant to a government-administered payment program is exempt from the interchange fee standards for a given calendar year if one of the following two conditions applies:

(1) The issuer, along with its affiliates worldwide, has assets that are less than $10 billion, as of December 31 of the prior calendar year.

(2) The issuer, along with its affiliates worldwide, has assets that are greater than or equal to $10 billion, as of December 31 of the prior calendar year, and all of the following conditions apply:

- The cardholder may use the debit card only to transfer or debit funds, monetary value, or other assets that have been provided pursuant to a government-administered payment program;
- The issuer does not charge a fee for overdrafts, including a shortage of funds or a transaction processed for an amount exceeding the account balance, unless the fee or charge is imposed for transferring funds from another asset account to cover a shortfall in the account accessed by the card; and
- The issuer does not charge a fee for the first withdrawal per calendar month from an ATM that is part of the issuer's designated ATM network.

The breakout in question 2 (of the revised survey) would allow the Board to better understand whether (and if so, the extent to which) issuers choose to receive the exemption with respect to their government-administered, general-use prepaid card programs, and further, would allow the Board to calculate interchange fee metrics for both exempt and non-exempt transactions.

Section V: Fees Paid by Issuers (Renumbered From ''Section VI'')

There are no proposed changes to the questions in this section.

Section VI: Issuer Revenue: Interchange Fees (Renumbered From ''Section VII'')

Question 2 (current survey): Interchange fee revenue by network type. The Board proposes to delete question 2 (of the current survey) which asks for the breakout of total interchange fee revenue between revenue received from single-message transactions and dual-message transactions. As discussed above in the paragraph titled ''Section II: Government-Administered Payment Cards (current survey)'', the Board believes that it is no longer necessary to collect network-related information in this survey.

Question 2 (revised survey): Exempt vs. non-exempt transactions. The Board proposes to add question 2 (to the revised survey) to break out the total interchange fee revenue between interchange fee revenue from transactions that are exempt and those that are not exempt from the interchange fee standards of Regulation II. This breakout would allow the Board to better understand whether (and if so, the extent to which) issuers receive the exemption from the interchange fee standards of Regulation II with respect to their government-administered prepaid card programs, and, further, would allow the Board to calculate interchange-fee metrics for both exempt and non-exempt transactions.

Section VII: Issuer Revenue: Cardholder Fees (Renumbered From ''Section VIII'')

The Board proposes to combine relevant questions related to cardholder fee revenue in sections XIII and IX (of the current survey) to streamline the survey and reduce reporting burden. The current section IX, which contains detailed questions on each type of cardholder fee, would be eliminated, significantly reducing the number of questions in the survey.

Questions 1 and 2 (revised survey): All fees assessed to cardholders. Questions 1 and 2 (of the current survey) ask for the total revenue received from certain types of cardholder fees. The Board proposes to add a column of numerical boxes to request the number of times each type of fee was assessed, a column of numerical boxes to request the number of programs in which each type of fee is subject to government-imposed restrictions, and a column of text boxes to request a description of government-imposed restrictions on fees. These additional questions appear in section IX (of the current survey) titled ''Fees Assessed to Cardholders'', which, as discussed below, the Board is also proposing to eliminate. In addition to reducing reporting burden, the Board believes that combining the questions related to cardholder fee revenue with those requesting the number of times fees were assessed will increase survey clarity and the quality of submitted responses. Further, the numerical box intended to collect the number of programs in which each type of fee is subject to government-imposed restrictions allows issuers to report aggregate information on government imposed restrictions (in contrast to the 'yes/no' question format in the current survey). Therefore, this new question format supports the Board's proposed revision to the reporting structure which would allow issuers to provide aggregate responses for their programs.

Section XIII (Revised Survey): Issuer Revenue: Other (New Section)

The Board proposes to create a new section titled ''Issuer Revenue: Other'', with four questions to capture revenue received by issuers that are not captured by the current survey:

Question 1 (revised survey): Total revenue received from fees assessed to government office(s).

Question 2 (revised survey): Total value of incentive payments received from payment card networks. Incentive payments are payments received by an issuer from a payment card network with respect to debit card transactions or debit-card-related activity. Issuer incentives may be based on reaching specified volume levels, promoting the network's brand through marketing activities, converting the issuer's debit card base to a different signature network, or undertaking other activities. Incentive payments do not include payments from a network to an issuer for traditional banking services the issuer provides the network (for example, transaction account services to the network).

Question 3 (revised survey): Total revenue received from all other sources.

This new section will provide the Board with a more complete picture of the types of revenue received by issuers of government-administered, general-use prepaid cards.

Section IX: Fees Assessed to Cardholders (Current Survey)—(Deleted)

The Board proposes to eliminate section IX (of the current survey) to reduce reporting burden. As discussed above under the heading ''Section VII: Issuer Revenue: Cardholder Fees'', the Board proposes to combine specific questions in sections XIII and IX (of the current survey). Those questions in section IX (of the current survey) that were not combined with section XIII (of the current survey) would be eliminated. The Board believes that the information captured in the deleted questions are no longer relevant for the report process.

Government Survey (3063b)

The government survey is voluntary and is sent to state and local government offices to submit information about the prevalence of use of general-use prepaid cards in federal, state, and local government-administered payment programs. The current government survey (last administered in early 2014) comprises three sections:

1. *Government-Administered, General-Use Prepaid Card Program Information:* Respondents report summary information on the government-administered payment program(s) covered in the response, whether the response covers federal or state/local programs, sponsoring government agency/agencies, card-issuing bank(s), the type of payment program(s), the number of recipients receiving payments (by any payment method), and the number of recipients receiving payments by prepaid cards.

2. *Cards:* Respondents report the number of cards outstanding at year-end.

3. *Funding:* Respondents report the value of funds loaded into prepaid card accounts and the value of all funds paid (by all payment methods).

Proposed Revisions to Government Survey (FR 3063b)

Section I: Government-Administered, General-Use Prepaid Card Program Information

Question 1a (revised survey): Number of government-administered payment program(s) covered in this response. The Board proposes to add question 1a (to the revised survey) to obtain a more accurate count of the programs government offices are reporting on.

Question 2 (revised survey): Sponsoring government agency. The Board proposes to combine question 4 (of the current survey) which requests the name of the sponsoring agency (the agency administering a government-administered payment program) and question 2 (of the current survey) which asks whether the response covers a state/local or federal program. The combined question 2 (of the revised survey) would ask for the name of the sponsoring agency and whether the sponsoring agency's jurisdiction is state/local or federal. The Board believes that combining the two questions will improve survey clarity and the quality of submitted responses.

Section II: Number of Cards (Renamed From ''Government-Administered Payment Cards'')

There are no proposed changes to the questions in this section.

Section III: Funds Disbursed to Payment Recipients (Renamed From ''Funding'')

Questions 1 and 2: The Board proposes to reorder and modify questions 1 and 2. Respondents would first report total funds disbursed in question 1 (of the revised survey) and break that figure out between funds disbursed by prepaid cards and funds disbursed by all other payment methods in question 2 (of the revised survey). The Board expects that this breakout will improve question clarity and the quality of submitted responses.

Additional Request for Comment Regarding the Government Survey

The Board requests specific comment regarding the potential impact of eliminating the government survey (FR 3063b). The Board currently uses the responses provided by government agencies to calculate and report prevalence-of-use metrics; specifically, the government data allow the Board to report the ratio of funds disbursed by prepaid cards to funds disbursed by all payment methods (check, ACH, payment cards, etc.) across different

types of government-administered payment programs. Should the Board decide to eliminate the government survey, it would rely on data from the issuer survey (FR 3063a) to report on prevalence of use. Because issuers of government-administered prepaid cards are unable to report on the value of government-agency disbursements made by payment methods other than prepaid cards, the Board would not report the ratio of funds disbursed by prepaid card to funds disbursed by all payment methods. However, the Board would report alternative prevalence-of-use metrics, including the value of funds loaded onto government-administered prepaid cards, the volume and value of settled purchase transactions, and the volume and value of ATM withdrawals.

The Board believes that eliminating the government survey would significantly reduce reporting burden on the public. At the same time, however, this change could increase burden on the public in other respects, because some members of the public may rely on the prevalence-of-use ratio currently reported by the Board. The Board requests specific comment on whether the potential benefits of eliminating the government survey outweigh the potential costs.

The Board also requests specific comment regarding the existence of reputable reports or other data sources that would allow the Board to continue to calculate the ratio of the value funds disbursed by prepaid card to funds disbursed by all payment methods. As discussed above, the Board currently collects prepaid card funding information with the issuer survey. The Board is interested in finding reputable data sources containing the value of funds disbursed by all payment methods at the program category level. For example, the Board has identified potential data sources for four categories:

1. *Unemployment insurance programs*—the United States Department of Labor publishes total unemployment insurance outlays under the *Unemployment Insurance Chartbook.*

2. *Supplemental Nutrition Assistance Program (SNAP)*—the United States Department of Agriculture publishes total outlays under the SNAP program on its *data Web site.*

3. *Payroll programs*—the United States Census Bureau publishes payroll estimates for federal, state, and local governments based on its *Annual Survey of Public Employment and Payroll.*

4. *Temporary Assistance for Needy Families (TANF) programs*—The U.S. Department of Health and Human Services publishes annual TANF expenditures on its data Web site.

The Board requests specific comment on whether additional sources of expenditure data at the program category level exist.

The proposed revisions to both surveys would be effective for the collection during the first half of 2015 of calendar year 2014 data.

Board of Governors of the Federal Reserve System, September 16, 2014.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2014–22357 Filed 9–18–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Federal Trade Commission (''Commission'' or ''FTC'').

ACTION: Notice.

SUMMARY: The FTC plans to conduct a study to examine consumer perception of environmental marketing claims. This is the second of two notices required under the Paperwork Reduction Act (''PRA'') in which the FTC seeks public comments on its proposed consumer research in connection with requesting Office of Management and Budget (''OMB'') review of, and clearance for, the collection of information discussed herein.

DATES: Comments must be received on or before October 20, 2014.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Green Marketing Consumer Perception Study, Project No. P954501'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/organicstudypra2,* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, Attorney, 202–326–2889, or Laura Koss, Attorney, 202–326–2890, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission's Guides for the Use of Environmental Marketing Claims (''Green Guides'' or ''Guides'') (16 CFR part 260) help marketers avoid making unfair and deceptive environmental claims.[1] The Guides outline general principles that apply to all environmental marketing claims and provide guidance regarding specific categories of such claims.[2] These categories include: General environmental benefit claims such as ''environmentally friendly''; degradable claims; compostable claims; recyclable claims; recycled content claims; source reduction claims; refillable claims; and ''free-of'' claims. The Green Guides explain how reasonable consumers are likely to interpret claims within these categories. The Guides also describe the basic elements necessary to substantiate claims and present options for qualifying them to avoid deception.[3] The illustrative qualifications provide ''safe harbors'' for marketers who want certainty, but do not represent the only permissible approaches. Currently, the Guides do not provide specific guidance regarding ''organic'' claims.

II. The FTC's Proposed Study

A. Study Description

The FTC plans to conduct Internet-based research to explore consumer perceptions of certain environmental marketing claims, such as ''organic'' and ''recycled content,'' to help the Commission better advise marketers on

[1] The Commission issued the Green Guides in 1992 (57 FR 36363) and subsequently revised them in 1996 (61 FR 53311), 1998 (63 FR 24240), and 2012 (77 FR 62121).

[2] 15 U.S.C. 45(a). The Commission's industry guides, such as the Green Guides, are administrative interpretations of the application of Section 5 of the FTC Act, 15 U.S.C. 45(a), to advertising claims. The Commission issues industry guides to provide guidance for the public to conform with legal requirements. These guides provide the basis for voluntary abandonment of unlawful practices by industry members. 16 CFR part 17. The Guides do not have the force and effect of law and are not independently enforceable. However, the Commission can take action under the FTC Act if a business makes environmental marketing claims inconsistent with the Guides. In any such enforcement action, the Commission must prove that the act or practice at issue is unfair or deceptive.

[3] The Guides do not, however, establish standards for environmental performance or prescribe testing protocols.

how to comply with the law. The proposed study will compare participant responses regarding the meaning of such claims across different products. Specifically, using a treatment-effect methodology, the study will examine whether respondents viewing organic and recycled content claims believe that these products have particular environmental benefits or attributes depending on the context in which they are presented. For ''recycled content'' claims, the study will present questions about products produced with materials sourced under different scenarios and compare participant responses to those scenarios. Those sources include products recycled by consumers, and those from manufacturing other products and reprocessed to varying degrees.

The study will also examine how respondents understand the term ''organic'' for claims involving products not covered by the National Organic Program (NOP) (*e.g.,* mattresses and dry cleaning).[4] The FTC staff will use the study results, along with other information such as public comments, in considering whether to recommend that the Commission propose revisions to the Green Guides.

Having considered the costs and benefits of various data collection methods, the FTC has concluded that an Internet panel with nationwide coverage will provide the most efficient way to meet the research objectives. We will draw participants from an Internet panel maintained by a commercial firm. All participation will be voluntary. While the results will not be generalizable to the U.S. population, they will provide useful insights into consumer understanding of the claims being considered, particularly when comparing the responses to various scenarios to determine how consumers may view those scenarios differently. The FTC has contracted with IPSOS, a consumer research firm with substantial experience assessing consumer communications via the Internet and other alternative protocols, to administer the Internet study.

B. PRA Burden Analysis

Staff is revising certain prior assumptions[5] based on a more precise target population for completing the questionnaire and further consultation with its contractor regarding the anticipated response rate. IPSOS anticipates that 10 percent of those invited to participate in the study will complete the questionnaire. Accordingly, IPSOS might contact as many as 80,000 persons to achieve the study's goal of surveying 8,000 respondents.

As before, staff estimates that respondents to the Internet questionnaire will require, on average, approximately 20 minutes to complete it. Staff will pretest the questionnaire with approximately 100 respondents to ensure that all questions are easily understood. The pretest will total approximately 38 hours cumulatively (100 respondents × 23 minutes each), allowing for an extra three minutes per respondent for questions.

For the full study, FTC staff now accounts in its estimates both for those who will complete the questionnaire and those who will not. Cumulatively, those completing it will require approximately 2,667 hours (8,000 persons × 20 minutes each). Staff projects that those who will prematurely end the process will do so in under one minute; thus taking 1,200 hours, in total. [(80,000 total contacts—8,000 persons completing the questionnaire) × 1 minute each)]. Cumulatively, then, complete and partial surveying of 80,000 persons will total about 3,867 hours.

For the pretest, an additional 900 persons will prematurely end the process, which, cumulatively, totals an additional 15 hours.

Overall burden for the pretest and questionnaire would thus be 3,920 hours. The cost per respondent should be negligible. Participation is voluntary, and will not require any labor expenditures by respondents. There are no capital, start-up, operation, maintenance, or other similar costs to the respondents.

III. Paperwork Reduction Act

Under the PRA, 44 U.S.C. 3501–3521, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party.[6] As required by section 3506(c)(2) of the PRA, the FTC published a notice seeking public comment on the proposed collections of information. *See* 79 FR 16330 (Mar. 25, 2014). In response, the Commission received three comments.[7] Section IV below sets forth FTC staff's analysis of these comments.

Pursuant to the OMB regulations, 5 CFR Part 1320, that implement the PRA, the Commission is providing this second opportunity for public comment. All comments should be filed as prescribed in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below, and must be received on or before October 20, 2014.

IV. Analysis of Comments Received

As noted above, the Commission received three comments regarding the proposed collections of information. Each comment is discussed below:

Organic Trade Association: The Organic Trade Association (OTA) provided five recommendations for the study. First, it urged the FTC to refrain from conducting research on products already covered by the USDA's NOP. Second, it suggested that the FTC explore ''consumer trust in organic labeling'' related to products outside of the NOP's coverage. Third, it recommended that the FTC draft an enforcement policy related to such products. Fourth, it asked the FTC to monitor and take enforcement action against misleading ''organic'' claims for products not subject to USDA authority. Finally, OTA suggested that the FTC consider OTA's own research projects related to organic issues, the *U.S. Families' Organic Attitudes and Beliefs Study* and OTA's *Organic Industry Survey,* updated versions of which will be available soon.

Consistent with OTA's recommendations, the FTC staff plans to focus only on organic claims involving products not clearly subject to current USDA requirements, such as dry cleaning or mattresses. In implementing this approach, the study will include several questions asking how respondents believe ''organic'' claims to be regulated, thus exploring their understanding of such claims. In addition, as explained earlier in this Notice, the FTC staff will use the results of the research, as well as other available studies, to determine whether to recommend development of further guidance related to such claims. The results will also help the FTC staff in considering appropriate enforcement against misleading claims for products not subject to NOP authority.

National Marketing Institute: NMI encouraged the FTC to consider NMI's research services for the study. NMI explained that it has conducted consumer surveys for several years on a

[4] The NOP is administered by the U.S. Department of Agriculture (USDA).

[5] See 79 FR 16330 (Mar. 25, 2014).

[6] 44 U.S.C. 3502(3); 5 CFR 1320.3(c).

[7] The Commission received comments from the Organic Trade Association (#562–00008); Iberdrola Renewables (#562–00007); and the Natural Marketing Institute (NMI) (#562–00005), *available at http://www.ftc.gov/policy/public-comments/initiative-562.*

variety of environmental claims including consumer packaging and recycling habits, as well as consumer attitudes, trust, and purchasing behaviors related to organic products. NMI contended that it could provide information about cost, timing, and specific participation procedures. It noted that data results are typically available five weeks after collection.

As explained in this Notice, the FTC has already contracted through the normal competively bid process with a firm experienced in such consumer studies to field this research project. This contracting process is complete.

Iberdrola Renewables: Iberdrola Renewables expressed general support for the overall objective of the Green Guides—to ensure the ''honesty, accuracy, and integrity of environmental marketing claims.''

V. Request for Comment

Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) Whether the reporting requirements are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (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.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before October 20, 2014. Write ''Green Marketing Consumer Perception Study, Project No. P954501'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential,'' as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[8] Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/organicstudypra2,* by following the instructions on the Web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Comments on the information collection requirements subject to review under the PRA should additionally be submitted to OMB. If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus, comments instead should be sent by facsimile to (202) 395–5806.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before October 20, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

David C. Shonka,

Principal Deputy General Counsel.

[FR Doc. 2014–22359 Filed 9–18–14; 8:45 am]

BILLING CODE 6750–01–P

[8] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

FEDERAL TRADE COMMISSION

[File No. 122 3287]

John Matthew Dwyer III; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 14, 2014.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/healthylifedwyerconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''In the Matter of John Matthew Dwyer III, a/k/a Matthew Dwyer; File No. 122 3287'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/healthylifedwyerconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade

Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Elizabeth Nach, Bureau of Consumer Protection, (202–326–2611), 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for September 11, 2014), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before October 14, 2014. Write ''In the Matter of John Matthew Dwyer III, a/k/a Matthew Dwyer; File No. 122 3287'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/healthylifedwyerconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write ''In the Matter of John Matthew Dwyer III, a/k/a Matthew Dwyer; File No. 122 3287'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before October 14, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''FTC'' or ''Commission'') has accepted, subject to final approval, an agreement containing a consent order from John Matthew Dwyer III, a/k/a Matthew Dwyer (''Dwyer'').

The proposed consent order (''proposed order'') has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves advertising for HealthyLife Sciences, LLC's Healthe Trim line of weight loss dietary supplements (''Healthe Trim''). The complaint alleges that Dwyer, a co-founder of HealthyLife Sciences, LLC, and former chief executive officer and spokesman for Healthe Trim, violated Sections 5(a) and 12 of the Federal Trade Commission Act by making false or unsubstantiated representations that Healthe Trim would cause rapid and substantial weight loss, including as much as 35, 130, and 165 pounds. Dwyer also claimed that users would lose weight without dieting, and that Healthe Trim would burn fat, increase metabolism, and suppress appetite. The complaint also alleges that Dwyer violated Sections 5(a) and 12 by falsely representing that Healthe Trim is clinically proven to cause weight loss.

The proposed order includes injunctive relief that prohibits these alleged violations and fences in similar and related violations. For purposes of the order, ''Covered Product'' means any dietary supplement, food, or drug.

Part I of the proposed order bans Dwyer from manufacturing, marketing, or distributing any weight-loss product or program, or assisting others in any of the foregoing.

Part II of the proposed order prohibits any representation about the health benefits, performance, or efficacy of any Covered Product, unless it is non-misleading and supported by competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted in the relevant scientific fields, when

considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true. For purposes of this Part, competent and reliable scientific evidence is defined as tests, analyses, research, or studies that have been conducted by qualified persons in an objective manner and are generally accepted in the profession to yield accurate and reliable results. When that evidence consists of human clinical tests or studies, Dwyer must maintain all underlying or supporting data and documents that experts in the field generally would accept as relevant to an assessment of such testing.

Part III of the proposed order prohibits Dwyer from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research in connection with the manufacturing, labeling, advertising, promotion, offering for sale, and sale or distribution of any Covered Product.

Part IV provides a safe harbor for representations permitted under any tentative final or final standard promulgated by the Food and Drug Administration (''FDA''), any new drug application approved by the FDA, or FDA regulations pursuant to the Nutrition Labeling and Education Act of 1990 or the FDA Modernization Act of 1997.

Triggered when the human clinical testing requirement in Part II applies, Part V of the proposed order requires Dwyer to secure and preserve all underlying or supporting data and documents generally accepted by experts in the field as relevant to an assessment of the test, such as protocols, instructions, participant-specific data, statistical analyses, and contracts with the test's researchers. There is an exception for a ''Reliably Reported'' test, defined as a test published in a peer-reviewed journal that was not conducted, controlled, or sponsored by Dwyer, his affiliates, or others in the manufacturing or supply chain. Also, the published report must provide sufficient information about the test for experts in the relevant field to assess the reliability of the results.

Parts VI through IX of the proposed order require Dwyer to: Deliver a copy of the order to principals, officers, directors, and other employees having responsibilities with respect to the subject matter of the order; notify the Commission of changes in employment that might affect compliance obligations under the order; and file compliance reports with the Commission.

Part X provides that the order will terminate after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the complaint or proposed order, or to modify the proposed order's terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2014–22388 Filed 9–18–14; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 122 3287]

HealthyLife Sciences, LLC; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 14, 2014.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/healthylifesciencesconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''In the Matter of HealthyLife Sciences, LLC—Consent Agreement; File No. 122 3287'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/healthylifesciencesconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Elizabeth Nach, Bureau of Consumer Protection, (202–326–2611), 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for September 11, 2014), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before October 14, 2014. Write ''In the Matter of HealthyLife Sciences, LLC—Consent Agreement; File No. 122 3287'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/healthylifesciencesconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write ''In the Matter of HealthyLife Sciences, LLC—Consent Agreement; File No. 122 3287'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before October 14, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''FTC'' or ''Commission'') has accepted, subject to final approval, an agreement containing a consent order from HealthyLife Sciences, LLC (''HealthyLife Sciences'').

The proposed consent order (''proposed order'') has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves HealthyLife Science's advertising for its Healthe Trim line of weight-loss dietary supplements (''Healthe Trim''). The complaint alleges that the company violated Sections 5(a) and 12 of the Federal Trade Commission Act by making false or unsubstantiated representations that Healthe Trim would cause rapid and substantial weight loss, including as much as 35, 130, and 165 pounds. It also claimed that users would lose weight without dieting, and that Healthe Trim would burn fat, increase metabolism, and suppress appetite. The complaint also alleges that HealthyLife Sciences violated Sections 5(a) and 12 by falsely representing that Healthe Trim is clinically proven to cause weight loss.

The proposed order includes injunctive relief that prohibits these alleged violations and fences in similar and related violations. For purposes of the order, ''Covered Product'' means any dietary supplement, food, or drug.

Part I of the proposed order bans HLS from making any of the seven ''gut check'' weight loss claims that the Commission has publicly advised are always false, specifically that any dietary supplement, over-the-counter drug, or patch, cream, wrap, or other product worn on the body or rubbed into the skin: (1) Causes weight loss of two pounds or more a week for a month or more without dieting or exercise; (2) causes substantial weight loss no matter what or how much the user eats; (3) causes permanent weight loss; (4) blocks the absorption of fat or calories to enable users to lose substantial weight; (5) safely enables users to lose more than three pounds per week for more than four weeks; (6) causes substantial weight loss for all users; or (7) causes substantial weight loss by wearing a product on the body or rubbing it into the skin.

Part II of the proposed order prohibits HLS from making claims that any Covered Product causes weight loss, causes substantial or rapid weight loss, causes weight loss without the need to diet or make lifestyle changes, burns fat or causes fat loss, boosts metabolism, or suppresses appetite, unless it possesses and relies upon competent and reliable scientific evidence, defined as at least two adequate and well-controlled human clinical studies. The studies must have been conducted by qualified persons, and have been randomized, double-blinded, and placebo-controlled. In addition, the company must maintain all underlying or supporting data that experts in weight-loss research generally would accept as relevant to an assessment of such testing.

Part III of the proposed order prohibits any representation about the health benefits, performance, or efficacy of any Covered Product, unless it is non-misleading and supported by competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted in the relevant scientific fields, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true. For purposes of this Part, competent and reliable scientific evidence is defined as tests, analyses, research, or studies that have been conducted by qualified persons in an objective manner and are generally accepted in the profession to yield accurate and reliable results. When that evidence consists of human clinical tests or studies, HLS must maintain all underlying or supporting data and documents that experts in the field generally would accept as relevant to an assessment of such testing.

Part IV of the proposed order prohibits HLS from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research in connection with the manufacturing, labeling, advertising, promotion, offering for sale, and sale or distribution of any Covered Product.

Part V provides a safe harbor for representations permitted under any tentative final or final standard promulgated by the Food and Drug Administration (''FDA''), any new drug application approved by the FDA, or FDA regulations pursuant to the Nutrition Labeling and Education Act of 1990 or the FDA Modernization Act of 1997.

Triggered when the human clinical testing requirement in Part II or III applies, Part VI of the proposed order requires HLS to secure and preserve all underlying or supporting data and documents generally accepted by experts in the field as relevant to an assessment of the human clinical test or

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

study, such as protocols, instructions, participant-specific data, statistical analyses, and contracts with the test's researchers. There is an exception for a ''Reliably Reported'' test, defined as a test published in a peer-reviewed journal that was not conducted, controlled, or sponsored by HLS, its affiliates, or others in the manufacturing and supply chain. Also, the published report must provide sufficient information about the test for experts in the relevant field to assess the reliability of the results.

Parts VII through X of the proposed order require HLS to: Deliver a copy of the order to principals, officers, directors and other employees having responsibilities with respect to the subject matter of the order; notify the Commission of changes in corporate structure that might affect compliance obligations under the order; and file compliance reports with the Commission.

Part XI provides that the order will terminate after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the complaint or proposed order, or to modify the proposed order's terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2014–22402 Filed 9–18–14; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10137, CMS–10305, CMS–10068 and CMS–10343]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by October 20, 2014.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *OR* Email: *OIRA_submission@omb.eop.gov*.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*.
2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*.
3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Solicitation for Applications for Medicare Prescription Drug Plan 2015 Contracts; *Use:* The information will be collected under the solicitation of proposals from PDP, MA–PD, Cost Plan, PACE, and EGWP applicants. We will use the information to ensure that applicants meet our requirements and support the determination of contract awards. Participation in the Part D program is voluntary in nature. Only organizations that are interested in participating in the program will respond to the solicitation. The MA–PDs that voluntarily participate in the Part C program must submit a Part D application and successful bid. *Form Number:* CMS–10137 (OMB control number: 0938–0936); *Frequency:* Yearly; *Affected Public:* Private sector—Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 254; *Total Annual Responses:* 254; *Total Annual Hours:* 2,193. (For policy questions regarding this collection contact Arianne Spaccarelli at 410–786–5715).

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Part C and Part D Data Validation; *Use:* Organizations contracted to offer Medicare Part C and Part D benefits are required to report data to us on a variety of measures. For the data to be useful for monitoring and performance measurement, the data must be reliable, valid, complete, and comparable among sponsoring organizations. To meet this goal, we have developed reporting standards and data validation specifications with respect to the Part C and Part D reporting requirements. These standards provide a review process for Medicare Advantage Organizations, Cost Plans, and Part D sponsors to use to conduct data validation checks on their reported Part C and Part D data. The currently approved information collection is being revised to reflect decreases in the number of reporting sections being validated and an increase in the average number of data elements per reporting section for 2015–2017. The package has been revised subsequent to the publication of the 60-day **Federal**

Register notice (June 13, 2014; 79 FR 33927). *Form Number:* CMS–10305 (OMB control number: 0938–1115); *Frequency:* Yearly; *Affected Public:* Private sector—Business or other for-profits; *Number of Respondents:* 706; *Total Annual Responses:* 706; *Total Annual Hours:* 202,578. (For policy questions regarding this collection contact Terry Lied at 410–786–8973).

3. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Medicare Ombudsman Customer Service Feedback Survey; *Use:* The Centers for Medicare and Medicaid Services stresses a continuing need for setting customer service goals that include providing accurate, timely, and relevant information to its customers. With these goals in mind, we periodically survey our customers to ensure that the needs of Medicare beneficiaries are being met. This survey will be used to measure overall satisfaction of the customer service that the Medicare Ombudsman Group (MOG) within CMS provides to Medicare beneficiaries and their representatives. The information provided will be used by management and staff to measure and improve the quality and timeliness of responses to written and verbal correspondence. *Form Numbers:* CMS–10068 (OMB control number: 0938–0894); *Frequency:* Annually, occasionally; *Affected Public:* Private Sector; Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 2,380; *Total Annual Responses*: 2,380; *Total Annual Hours:* 317. (For policy questions regarding this collection contact Nancy Conn at 410–786–8374.)

4. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information Collection:* State Plan Preprint for Medicaid Recovery Audit Contractors (RACs); *Use:* Under section 1902(a)(42)(B)(i) of the Social Security Act, States are required to establish programs to contract with one or more Medicaid Recovery Audit Contractors (RACs) for the purpose of identifying underpayments and recouping overpayments under the State plan and any waiver of the State plan with respect to all services for which payment is made to any entity under such plan or waiver. Further, the statute requires States to establish programs to contract with Medicaid RACs in a manner consistent with State law, and generally in the same manner as the Secretary contracts with Medicare RACs. State programs contracted with Medicaid RACs are not required to be fully operational until after December 31, 2010. States may submit, to CMS, a State Plan Amendment (SPA) attesting that they will establish a Medicaid RAC program. States have broad discretion regarding the Medicaid RAC program design and the number of entities with which they elect to contract. Many States already have experience utilizing contingency-fee-based Third Party Liability recovery contractors. *Form Number:* CMS–10343 (OMB control number: 0938–1126); *Frequency:* Once; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 56; *Total Annual Responses:* 56; *Total Annual Hours:* 56. (For policy questions regarding this collection contact Yolanda Green at 410–786–0798.)

Dated: September 16, 2014.

Martique Jones,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2014–22379 Filed 9–18–14; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request, Process Assessment Review of the Division of Acquired Immunodeficiency Syndrome (DAIDS) Critical Events, Policy Implementation (CEPI) Program (NIAID)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health, has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on April 9, 2013, page 19633 and allowed 60-days for public comment. No comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institute of Allergy and Infectious Diseases (NIAID), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, or request more information on the proposed project, contact: Lynda Lahl, RN, MS, Office for Policy in Clinical Research Operations, DAIDS, NIAID, 5601 Fishers Lane, 9B25, Rockville, MD 20852, or call non-toll-free number 240–292–4887, or Email your request, including your address to: *Lynda.Lahl@nih.gov*. Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: Process Assessment Review of the Division Of Acquired Immunodeficiency Syndrome (DAIDS) Critical Events Policy Implementation (CEPI) Program, 0925-New, National Institute of Allergy and Infectious Diseases (NIAID), National Institutes of Health (NIH).

Need and Use of Information Collection: This is a new data collection to assess the CEPI program's progression to fulfillment of its program goals and will assess whether the CEPI program is implemented and functioning as intended. The program goals for CEPI are: 1) Awareness & Accessibility—The target populations (DAIDS Staff, extramural researchers, external stakeholders) are aware of the DAIDS Critical Events (CE) policy and manual and associated documents and whether the policy and associated documents are readily accessible.; 2) Understandability—The Critical Events policy and manual clearly articulate DAIDS expectations for CE policy implementation by the target populations. The CE policy and manual should establish a common base of understanding and promote positive attitudes towards event reporting; and 3) Applicability—Target populations are able to correctly identify which Critical Events have occurred at their sites and are able to apply the CE policy and manual to their events.

Findings will provide data to inform DAIDS and Protection of Participants, Evaluation and Policy (ProPEP) leadership regarding further policy deployment decisions. Information collected will be used to determine how effectively the CEPI Program meets extramural researchers' needs. By assessing the CEPI Program, DAIDS will

determine how successfully it is reaching its goals—to facilitate and improve the quality of clinical research conducted within the division. In addition, the CEPI Program assessment will determine whether previously recommended improvements included in the DPIP assessment were successfully incorporated into the policy rollout process. The results may be used as a model for policy development to facilitate compliance in reporting certain incidents and implementation in other National Institutes of Health (NIH) Institutes and Centers (ICs) and will be shared with all interested divisions and institutes within the NIH. There are no plans to share this information with the public.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 470.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Frequency of response	Average time per response	Annual hour burden
DAIDS staff surveys IC review	Webpage Study Details and Informed Consent DAIDS Staff screenshots.	100	1	5/60	8
DAIDS staff surveys	DAIDS Staff Survey screenshots	100	1	30/60	50
ER/ES—web surveys IC review	Webpage Study Details and Informed Consent for Extramural Researchers and External Stakeholders screenshots.	400	1	5/60	33
ER/ES—web surveys	Extramural Researcher External Stakeholder Survey screenshots.	400	1	30/60	200
DAIDS staff—web survey reminder	Reminder email to T2 web-survey participants.	100	1	5/60	8
ER/ES—web survey reminder	Reminder email to T2 web-survey participants.	400	1	5/60	33
DAIDS staff focus group IC review	DAIDS staff focus group consent form.	18	1	10/60	3
ER/ES—focus group IC review	Extramural researcher external stakeholders focus group consent form.	63	1	10/60	11
ER/ES—focus group	Incentive distribution log for focus group participants.	63	1	2/60	2
DAIDS staff focus groups	Focus group opening script and questions.	18	1	90/60	27
ER/ES—focus groups	Focus group opening script and questions.	63	1	90/60	95
Totals		1162			470

Dated: September 12, 2014.

Dione Washington,

Project Clearance Liaison, NIAID, NIH.

[FR Doc. 2014–22306 Filed 9–18–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Call for Participation for Computational Photography Project for Pill Identification (C3PI)

ACTION: Notice.

SUMMARY: The National Library of Medicine (NLM) invites pharmaceutical manufacturers, re-packagers, wholesalers, and retail and institutional pharmacies to submit prescription drug products for imaging as part of its Computational Photography Project for Pill Identification (C3PI). The NLM is developing the C3PI oral solid dosage formulations (OSDFs) collection as part of an initiative to build a reliable and high-quality image catalog of all OSDF prescription products marketed in the United States. Such a resource can support a number of public safety initiatives, such as in poison control, emergency response, and reduction of medication errors.

FOR FURTHER INFORMATION CONTACT: Any question regarding this process or the Computational Photography Project for Pill Identification (C3PI) should be sent to: *splimage@nlm.nih.gov*.

SUPPLEMENTARY INFORMATION: The Computational Photography Project for Pill Identification (C3PI) aims to develop information infrastructure and computational tools for identifying pills from digital photographs and associated data. As part of C3PI, the NLM has imaged and currently hosts a growing collection of more than 2,000 validated images of pharmaceutical OSDFs. High quality images of these products, photographed using visible spectrum macrophotography techniques, are available for public access through an Applications Programming Interface (API) [*http://RxImage.nlm.nih.gov/*]. These images are also displayed in several NLM drug applications, including RxNav [*http://rxnav.nlm.nih.gov/*] and Pillbox [*http://pillbox.nlm.nih.gov/*].

NLM assisted the FDA in the development the current SPLIMAGE file specification [*http://dailymed.nlm.nih.gov/dailymed/splimagesspec.cfm*], which was published in 2012 for submitting image files of oral solid dosage forms to the Food and Drug Administration (FDA) with Structured Product Label (SPL) documents. As part of the ongoing initiative to improve access to quality drug information, the NLM has worked closely with FDA's Center for Drug Evaluation and Research and Office of the Commissioner to increase the number of SPLIMAGE files included in SPL submissions. C3PI has successfully produced more than 2,000 SPLIMAGE files and these SPLIMAGE files have been made available through an NLM portal: *http://SPLimage.nlm.nih.gov.*

NLM is seeking the collaboration of pharmaceutical manufacturers, re-

packagers, wholesalers and pharmacies to obtain physical samples of OSDF products whose origin can be traced back to pharmaceutical manufacturers or private label distributors registered or listed with the Food and Drug Administration (FDA). The NLM will produce SPLIMAGE files suitable for inclusion in submissions to the Food and Drug Administrations' Structured Product Labeling (SPL) program [*http://www.fda.gov/forindustry/datastandards/structuredproductlabeling/default.htm*]. A secure online portal will be used to make SPLIMAGE files available to participants responding to this **Federal Register** notice.

C3PI will also support computer vision research. NLM computer scientists are seeking object identification metrics and methods that are invariant with respect to camera angle, lighting, and the color transfer functions often found in digital cameras. The comprehensive collection of images will serve as foundation for research in content-based information retrieval and image-based search in an area of healthcare that directly impacts public safety: Safe medication identification and management. In addition to image data, C3PI is generating information on color classification, image segmentation, pill description and dimensions, as well as other metadata.

C3PI is led and managed by NLM's Office of High Performance Computing and Communications in the Lister Hill National Center for Biomedical Communications. Additional information on NLM's Office of High Performance Computing and Communications is available at: *http://lhncbc.nlm.nih.gov/branch/office-high-performance-computing-and-communications.* Information on the Lister Hill National Center for Biomedical Communications is available at: *http://lhncbc.nlm.nih.gov/.*

General Instructions for Participating in C3PI

To participate in C3PI please visit *http://SPLimage.nlm.nih.gov* and follow the specific instructions provided. General instructions follow below:

1. Pharmaceutical manufacturers, private label distributors, re-packagers, wholesalers, and retail or institutional pharmacies (Participants) interested in submitting OSDF products to be imaged as part of the NLM sponsored C3PI OSDF Imaging initiative must first communicate their intention to participate in the project by contacting the NLM Point-of-Contact (NLM-PoC) using one of the following means:

Email: *splimage@nlm.nih.gov*

Or mail to: The National Library of Medicine, C3PI Imaging Initiative, Building 38A, Room B1N–30, 8600 Rockville Pike, Bethesda, MD 20894.

2. NLM-PoC will acknowledge the Participant's communication of intent and will provide the Participant with the necessary DEA and State Licensing documents to allow for the secure shipment of OSDF products to the NLM imaging facility.

3. Prior to shipping OSDFs to the NLM imaging facility, the Participant will provide the NLM-PoC a detailed and complete list of prescription drug products that they intend to submit to NLM for processing and imaging.

4. After the NLM-PoC has authorized the shipment of the prescription drug products in writing, the products will be sent to the address provided by the NLM-PoC. In order for NLM to accept the shipment, the participant *must* provide NLM-PoC with written confirmation for the shipment, including: (a) Shipping manifest details, (b) shipping service used, (c) tracking number, and (d) expected date of arrival.

5. NLM will have a licensed pharmacist review the received contents and match them against the shipment manifest provided the NLM-PoC. NLM-PoC will acknowledge receipt of shipment within 72hrs of its arrival at the appropriate location and will provide the Participant with an estimate of the date by which OSDF SPLIMAGE-candidate files will become available through the secure online portal: *http://SPLimage.nlm.nih.gov.*

Previous NLM Imaging Initiative Superseded

This notice supersedes all prior instructions provided by 76 FR 29773–29775 *https://federalregister.gov/a/2011-12629,* published on May 23, 2011.

Dated: September 12, 2014.

Betsy L. Humphreys,

Deputy Director, National Library of Medicine, National Institutes of Health.

[FR Doc. 2014–22308 Filed 9–18–14; 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, Skeletal Biology.

Date: October 3, 2014.

Time: 11:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Torrance Marriott South Bay, 3635 Fashion Way, Torrance, CA 90503.

Contact Person: Aruna K Behera, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4211, MSC 7814, Bethesda, MD 20892, 301–435–6809, *beheraak@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Virology—A Study Section.

Date: October 16–17, 2014.

Time: 8:30 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231.

Contact Person: Joanna M Pyper, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892, (301) 435–1151, *pyperj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Drug Discovery and Mechanisms of Antimicrobial Resistance.

Date: October 16, 2014.

Time: 11:30 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Fouad A. El-Zaatari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7808, Bethesda, MD 20892, (301) 435–1149, *elzaataf@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: September 15, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–22295 Filed 9–18–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the Risk, Prevention and Intervention for Addictions Study Section, October 09, 2014, 08:00 a.m. to October 10, 2014, 05:00 p.m., Sir Francis Drake Hotel, 450 Powell Street at Sutter, San Francisco, CA, 94102 which was published in the **Federal Register** on September 12, 2014, 79 FR 54734.

The meeting will be held at the Pier 2620 Hotel, 2620 Jones Street, San Francisco, CA 94133.

The meeting date and time remain the same. The meeting is closed to the public.

Dated: September 12, 2014.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–22296 Filed 9–18–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2014–0330; OMB Control Numbers 1625–(0020, 0024, 0029, 0031, 0085)]

Collection of Information under Review by Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard is forwarding Information Collection Requests (ICRs), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision to the following collections of information: 1625–0020, Security Zones, Regulated Navigation Areas, and Safety Zones; 1625–0024, Safety Approval of Cargo Containers; 1625–0029, Self-propelled Liquefied Gas Vessels; 1625–0031, Plan Approval and Records for Electrical Engineering Regulations—Title 46 CFR Subchapter J; and 1625–0085, Streamlined Inspection Program. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before October 20, 2014.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2014–0330] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT) and/or to OIRA. To avoid duplicate submissions, please use only one of the following means:

(1) *Online:* (a) To Coast Guard docket at *http://www.regulations.gov.* (b) To OIRA by email via: *OIRA-submission@omb.eop.gov* .

(2) *Mail:* (a) DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. (b) To OIRA, 725 17th Street NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Hand Delivery:* To DMF address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* (a) To DMF, 202–493–2251. (b) To OIRA at 202–395–6566. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICRs are available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–612), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703 MARTIN LUTHER KING JR AVE SE., STOP 7710, WASHINGTON DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532 or fax 202–372–8405, for questions on these documents. Contact Ms. Cheryl Collins, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collections. There is one ICR for each Collection.

The Coast Guard invites comments on whether these ICRs should be granted based on the Collections being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collections; (2) the accuracy of the estimated burden of the Collections; (3) ways to enhance the quality, utility, and clarity of information subject to the Collections; and (4) ways to minimize the burden of the Collections on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICRs referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG 2014–0330], and must be received by October 20, 2014. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

Submitting Comments

If you submit a comment, please include the docket number [USCG–2014–0330]; indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (via *http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via

www.regulations.gov, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit comments and material by electronic means, mail, fax, or hand delivery to the DMF at the address under **ADDRESSES**, but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type ''USCG–2014–0330'' in the ''Search'' box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Search'' box insert ''USCG–2014–0330'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Numbers: 1625–(0020, 0024, 0029, 0031, 0085).

Privacy Act

Anyone can search the electronic form of comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act statement regarding Coast Guard public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (79 FR 38051, July 3, 2014) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments.

Information Collection Requests

1. *Title:* Security Zones, Regulated Navigation Areas, and Safety Zones.
OMB Control Number: 1625–0020.
Type of Request: Revision of a currently approved collection.
Respondents: Federal, State, and local government agencies, owners and operators of vessels and facilities.
Abstract: The Coast Guard collects this information only when someone seeks a security zone, regulated navigation area, or safety zone. It uses the information to assess the need to establish one of these areas.
Forms: None.
Burden Estimate: The estimated burden has increased from 272 hours to 413 hours a year due to an increase in the estimated annual number of responses.

2. *Title:* Safety Approval of Cargo Containers.
OMB Control Number: 1625–0024.
Type of Request: Revision of a currently approved collection.
Respondents: Owners and manufacturers of containers, and organizations that the Coast Guard delegates to act as an approval authority.
Abstract: This information collection requires owners and manufacturers of cargo containers to submit information and keep records associated with the approval and inspection of those containers. This information is needed to ensure compliance with the International Convention for Safe Containers (CSC).
Forms: None.
Burden Estimate: The estimated burden has decreased from 104,095 hours to 98,452 hours a year due to a decrease in the estimated number of responses.

3. *Title:* Self-propelled Liquefied Gas Vessels.
OMB Control Number: 1625–0029.
Type of Request: Revision of a currently approved collection.
Respondents: Owners and operators of self-propelled vessels carrying liquefied gas.
Abstract: The information is needed to ensure compliance with our rules for design and operation of liquefied gas carriers.
Forms: None.
Burden Estimate: The estimated burden has increased from 6,754 hours to 7,890 hours a year due to an increase in the estimated number of respondents.

4. *Title:* Plan Approval and Records for Electrical Engineering Regulations—Title 46 CFR Subchapter J.
OMB Control Number: 1625–0031.
Type of Request: Revision of a currently approved collection.
Respondents: Owners, operators, shipyards, designers, and manufacturers of vessels.
Abstract: The information is needed to ensure compliance with our rules on electrical engineering for the design and construction of U.S.–flag commercial vessels.
Forms: None.
Burden Estimate: The estimated burden has increased from 4,754 hours to 6,843 hours a year due to an estimated increase in the annual number of responses.

5. *Title:* Streamlined Inspection Program.
OMB Control Number: 1625–0085.
Type of Request: Revision of a currently approved collection.
Respondents: Owners and operators of vessels.
Abstract: The Coast Guard established an optional Streamlined Inspection Program (SIP) to provide owners and operators of U.S. vessels an alternative method of complying with inspection requirements of the Coast Guard.
Forms: None.
Burden Estimate: The estimated burden has decreased from 2,774 hours to 2,334 hours a year due to a decrease in the number of SIP participants (i.e., companies and vessels).

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: September 11, 2014.

Thomas P. Michelli,

U.S. Coast Guard, Deputy Chief Information Officer.

[FR Doc. 2014–22425 Filed 9–18–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0032]

Agency Information Collection Activities: Revision of a Currently Approved Information Collection, Application for Waiver of Grounds of Excludability, Form I–690

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 revision of a currently approved collection of information or new collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection Notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until November 18, 2014.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0032 in the subject box, the agency name and Docket ID USCIS-2006–0047. 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–2006–0047. 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:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Waiver of Grounds of Inadmissibility.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–690; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or Households. USCIS will use this form to determine whether applicants are eligible for admission to the United States under sections 210 and 245A of the Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 22 responses (Form I–690) at approximately 3 hours per response; 11 responses (Supplement 1) at approximately 2 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 88 burden 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: September 16, 2014.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2014–22386 Filed 9–18–14; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[Docket No. USCBP–2014–0025]

Advisory Committee on Commercial Operations of Customs and Border Protection (COAC)

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security (DHS).

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting.

SUMMARY: The Advisory Committee on Commercial Operations of Customs and Border Protection (COAC) will meet on October 7, 2014, in Washington, DC. The meeting will be open to the public.

DATES: The Advisory Committee on Commercial Operations of Customs and Border Protection (COAC) will meet on Tuesday, October 7, from 1:00 p.m. to 4:00 p.m. EST. Please note that the meeting may close early if the committee has completed its business.

Pre-Registration: Meeting participants may attend either in person or via webinar after pre-registering using a method indicated below:

— For members of the public who plan to attend the meeting in person, please register either online at *https://apps.cbp.gov/te_reg/index.asp?w=28;* by email to *tradeevents@dhs.gov;* or by fax to 202–325–4290 by 5:00 p.m. EST on October 1, 2014. You must register prior to the meeting in order to attend the meeting in person. Please refer to the **ADDRESSES** section below for more details.

— For members of the public who plan to participate via webinar, please

register online at *https://apps.cbp.gov/te_reg/index.asp?w=29* by 5:00 p.m. EST on October 3, 2014. Feel free to share this information with other interested members of your organization or association.

Members of the public who are pre-registered and later require cancellation, please do so in advance of the meeting by accessing one (1) of the following links: *https://apps.cbp.gov/te_reg/cancel.asp?w=28* to cancel an in person registration, or *https://apps.cbp.gov/te_reg/cancel.asp?w=29* to cancel a webinar registration.

ADDRESSES: The meeting will be held at the U.S. Department of Agriculture (USDA) at 1400 Independence Avenue SW., South Cafeteria Rooms 1, 2, and 3, Washington, DC 20024.

All visitors to the U.S. Department of Agriculture (USDA) should proceed through the main lobby to the security checkpoint. You must register prior to the meeting in order to attend the meeting in person. After you have registered, your name will be placed on the meeting attendance list at the U.S. Department of Agriculture (USDA) building security check point. Your name must be on the attendance list at the security check point in order to enter the building. There will be no exceptions made for individuals not listed on the attendance list. There will be signage posted directing visitors to the location of South Cafeteria, Room 1, 2, and 3.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection at 202–344–1661 as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee prior to the formulation of recommendations as listed in the ''Agenda'' section below.

Comments must be submitted in writing no later than October 1, 2014, and must be identified by Docket No. USCBP–2014–0025, and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: Tradeevents@dhs.gov.* Include the docket number in the subject line of the message.
- *Fax:* 202–325–4290
- *Mail:* Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.5A, Washington, DC 20229.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. Do not submit personal information to this docket.

Docket: For access to the docket or to read background documents or comments, go to *http://www.regulations.gov* and search for Docket Number USCBP–2014–0025. To submit a comment, see the link on the Regulations.gov Web site for ''How do I submit a comment?'' located on the right hand side of the main site page.

There will be multiple public comment periods held during the meeting on October 7, 2014. Speakers are requested to limit their comments to two (2) minutes or less to facilitate greater participation. Contact the individual listed below to register as a speaker. Please note that the public comment period for speakers may end before the time indicated on the schedule that is posted on the CBP Web page, *http://www.cbp.gov/trade/stakeholder-engagement/coac,* at the time of the meeting.

FOR FURTHER INFORMATION CONTACT: Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.5A, Washington, DC 20229; telephone 202–344–1440; facsimile 202–325–4290.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act,* 5 U.S.C. Appendix. The Advisory Committee on Commercial Operations of Customs and Border Protection (COAC) provides advice to the Secretary of Homeland Security, the Secretary of the Treasury, and the Commissioner of U.S. Customs and Border Protection (CBP) on matters pertaining to the commercial operations of CBP and related functions within Department of Homeland Security and the Department of the Treasury.

Agenda

The Advisory Committee on Commercial Operations of Customs and Border Protection (COAC) will hear from the following project leaders and subcommittees on the topics listed below and then will review, deliberate, provide observations, and formulate recommendations on how to proceed on those topics:

1. The COAC Survey Team: Review and discuss the preliminary results of the *COAC 2014 Trade Efficiency Survey,* which combined exports and imports into one survey.

2. The Exports Subcommittee: Review and discuss the findings from two of the seven planned sub-workgroups (Air Manifest and Commodity Licensing) formed under the Export Process Work Group (EPWG), and the collaboration between the Bureau of Industry and Security's Federal Advisory Committee, the President's Export Council Subcommittee on Export Administration (PECSEA).

3. The One U.S. Government at the Border (1USG) Subcommittee: Review and discuss the progress of the Import Mapping Working Group and potential collaboration with the Border Inter-Agency Executive Council (BIEC). The 1USG Food and Drug Administration Working Group will provide findings and recommendations.

4. The Trade Enforcement and Revenue Collection Subcommittee: Review and discuss the recommendations on the Intellectual Property Rights (IPR) Working Group's work on the voluntary disclosure proposal and its utility for trade targeting; report and recommendations of the AD/CVD Working Group; and report on the Bonds Working Group's discussions on the concept of e-bonds.

5. The Trusted Trader Subcommittee: Update and discuss the C–TPAT Exporter Entity and the Trusted Trader Program pilot.

6. The Trade Modernization Subcommittee: Updates and discussion on ACE, Centers of Excellence and Expertise as well as Role of the Customs Broker activities will take place.

7. The Global Supply Chain Subcommittee: Updates and discussion regarding the Beyond the Border activities with Canada and 21st Century activities with Mexico will take place.

Dated: September 16, 2014.

Maria Luisa Boyce,

Senior Advisor for Private Sector Engagement, Office of Trade Relations.

[FR Doc. 2014–22349 Filed 9–18–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5750–N–38]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by

HUD for suitability for use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, and suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Ritta, Ms. Theresa M. Ritta, Chief Real Property Branch, the Department of Health and Human Services, Room 5B–17, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6672 (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Ann Marie Oliva at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Agriculture:* Ms. Debra Kerr, Department of Agriculture, Reporters Building, 300 7th Street SW., Room 300, Washington, DC 20024, (202)-720–8873; *Air Force:* Ms. Connie Lotfi, Air Force Real Property Agency, 143 Billy Mitchell Blvd., San Antonio, TX 78226, (210)- 925–3047; (These are not toll-free numbers).

Dated: September 11, 2014.

Brian P. Fitzmaurice,

Director, Division of Community Assistance, Office of Special Needs Assistance Programs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 09/19/2014

Suitable/Available Properties

Building

Alaska

2 Buildings
Industrial Ave.
Eielson AFB AK 99702
Landholding Agency: Air Force
Property Number: 18201310030
Status: Unutilized
Directions: 6213, 6214
Comments: off-site removal only; sf. varies; major repairs needed; contact AF for more info. on a specific property & accessibility/removal reqs.

Building 400
Main Street
King Salmon Airport AK
Landholding Agency: Air Force
Property Number: 18201320079
Status: Unutilized
Comments: 1,408 sf.; storage; 29 yrs. old; moderate conditions; periodic flooding (next to Naknek River).

Building 720
Fuel Lane
King Salmon Airport AK
Landholding Agency: Air Force
Property Number: 18201320083
Status: Unutilized
Comments: 285 sf.; fuel building; 24+ months vacant; deteriorated; periodic flooding (next to Naknek River).

California

Building 1028
19338 North St.
Beale CA 95903
Landholding Agency: Air Force
Property Number: 18201240009
Status: Unutilized
Comments: 178 sf.; storage; poor conditions; asbestos & lead; restricted area; contact AF for info. on accessibility requirements.

Building 2153
6900 Warren Shingle
Beale AFB CA 95903
Landholding Agency: Air Force
Property Number: 18201240010
Status: Unutilized
Comments: 4,000 sf.; storage; very poor conditions; asbestos & lead possible; restricted area; contact AF for info. on accessibility requirements.

Colorado

6 Buildings
GJKZ
Fairchild AFB CO 99011
Landholding Agency: Air Force
Property Number: 18201320042
Status: Underutilized
Directions: 1478, 1479, 1480,1482,1483,1484
Comments: off-site removal only; no future AF need; sf. varies; w/inactive military installation; contact AF for removal/accessibility reqs.

Florida

Building 5002
6801 Hwy 98
Tyndall AFB FL 32403
Landholding Agency: Air Force
Property Number: 18201310010
Status: Unutilized
Comments: 151 sf.; water pump station; 6 mons. vacant; major repairs; restricted area; contact AF for info. on accessibility reqs.

2 Buildings
CoCoa Beach Tracking Annex
Cocoa Beach FL 32931
Landholding Agency: Air Force
Property Number: 18201340040
Status: Unutilized
Directions: 00001 (59 sq. ft.); 00002 (1,030 sq. ft.)
Comments: 56+ yrs.-old; 24+ months vacant; launch support; fair conditions; contact Air Force for more info.

7 Buildings
Eglin AFB
Eglin FL 32542
Landholding Agency: Air Force
Property Number: 18201430056
Status: Unutilized
Directions: 1330 (288 sq. ft.); 1340 (100 sq. ft.); 1341 (100 sq. ft.); 1372 ((144 sq. ft.); 1350; 1403 (168 sq. ft.); 6011 (1,750 sq. ft.)
Comments: off-site removal only; no future agency need; removal may be difficult for 1350 and 1403; deterioration; secured are; contact air force for more information.

Georgia

5 Buildings
Moody Air Force Base
Moody GA 31699
Landholding Agency: Air Force
Property Number: 18201330006
Status: Underutilized
Directions: 1703 (853 sf.); 907 & 908 (9,186 sf. each); 662 & 754 (10,240 sf. each)
Comments: very poor conditions; 50- 70 yrs.-old; contamination; secured area; transferee will need escort each time to access property; contact Air Force for more info.

Louisiana

Building 117
Naval Air Station Joint Reserve Base
New Orleans LA 70143
Landholding Agency: Air Force
Property Number: 18201330046
Status: Excess
Comments: 3,975 sf.; storage; deteriorated; secured area; background check/pass required; contact Air Force for more info. re.; accessibility reqs.

Building 019
Naval Air Station joint Reserve Base
New Orleans LA 70143
Landholding Agency: Air Force
Property Number: 18201330050
Status: Excess
Comments: 3,038 sq. ft.; storage; deteriorated; secured area; official ID required; contact Air Force for more information.

Massachusetts

7 Buildings
Westover ARB
Chicopee MA 01022
Landholding Agency: Air Force
Property Number: 18201320062
Status: Underutilized
Directions: 7701,7704,7706,7707,2426,2765,7700
Comments: Off-site removal only; no future AF need; sf. varies; adequate to very poor conditions; contamination; restricted area; escort required; contact AF for more info.

Michigan

3 Buildings
Selfridge ANGB
Selfridge MI 48045
Landholding Agency: Air Force
Property Number: 18201220020
Status: Unutilized
Directions: 326,780,710
Comments: off-site removal only; sf varies; office/school/barracks; fair conditions; need repairs.

Mississippi

Building 112
CRTC Gulfport
Gulfport MS 39507
Landholding Agency: Air Force
Property Number: 18201330041
Status: Excess
Comments: 90 sf.; ATM bldg.; good conditions; contact Air Force for more info.

Nebraska

Visitor Control Center
Building #344
Offutt AFB
Offutt NE 68113
Landholding Agency: Air Force
Property Number: 18201430066
Status: Excess
Comments: 425 sq. ft.; base security police visitor control center; 4–5+ years old; moderate conditions; contact Air Force for more information.

New York

ARS Pesticide Storage Building
Asset ID 190800B042 RPUID 03.55316
Installation 20126 Plant Genetics Resources
Geneva NY
Landholding Agency: Agriculture
Property Number: 15201430022
Status: Excess
Comments: off-site removal only; 60 sq. ft.; storage; stores hazardous materials; secured area; contact Agriculture for more information.

Oklahoma

Building 267
7576 Sentry Blvd.
Tinker AFB OK 73145
Landholding Agency: Air Force
Property Number: 18201310039
Status: Unutilized
Comments: off-site removal only; 6,892 sf.; vehicle parking shed; fair conditions; restricted area; contact AF for info. on accessibility/removal requirements.

Building 1100
7492 Patrol Road
Tinker AFB OK 73145
Landholding Agency: Air Force
Property Number: 18201320024
Status: Underutilized
Comments: off-site removal only; no future AF need; 5,471 sf.; maint. facility; fair/poor condition; controlled AF installation, contact AF for more info.

Building 944
4600 Air Depot Blvd.
Tinker AFB OK 73145
Landholding Agency: Air Force
Property Number: 18201320026
Status: Underutilized
Comments: off-site removal only; no future AF need; 2,400 sf.; warehouse; fair/poor condition; controlled AF installation; contact AF for info. re: accessibility/removal.

Building 1111
Tinker AFB
Tinker OK 73145
Landholding Agency: Air Force
Property Number: 18201330028
Status: Unutilized
Comments: off-site removal only; no future agency need; 231 sf.; utility bldg.; generally good conditions; secured area; contact Air Force for more info.

2 Buildings
Tinker AFB
Tinker OK 73145
Landholding Agency: Air Force
Property Number: 18201330029
Status: Unutilized
Directions: 1072,901
Comments: off-site removal only; no agency need; poor conditions; secured area; contact Air Force for info. on a specific property & removal requirements.

Building 183
Altus AFB AGGN
Altus OK 73523
Landholding Agency: Air Force
Property Number: 18201340001
Status: Unutilized
Comments: 167 sq. ft.; no bathroom; secured area; escort required each time to access property; asbestos; contact Air Force for more info.

280
7481 Sentry Boulevard
Tinker AFB OK 73145
Landholding Agency: Air Force
Property Number: 18201420002
Status: Excess
Comments: off-site removal only; 19,034 sq. ft.; wing HQs; roof is in poor condition; secured area; contact for accessibility; removal request.

268
7568 Sentry Boulevard
Tinker AFB OK 73145
Landholding Agency: Air Force
Property Number: 18201420008
Status: Underutilized
Comments: off-site removal only; no future agency need; 7,311 sq. ft.; air passenger terminal; roof needs repairing; secured area; contact AF for more info.

7 Buildings
Tinker AFB
Tinker AFB OK 73145
Landholding Agency: Air Force
Property Number: 18201420050
Status: Unutilized
Directions: 1064; 7043; 7014; 7012; 7011; 7010; 7009
Comments: off-site removal only; no future agency need; poor conditions, secured area; contact AF for more information on a specific property & accessibility requirements.

Puerto Rico

Muniz IAP
200 JoseA (Tony) Santana Ave.
Carolina PR 09879
Landholding Agency: Air Force
Property Number: 18201320069
Status: Unutilized
Comments: 755 sf.; potable water storage & pump house; poor conditions; secured area; escort required to access property; contact AF for more info.

South Carolina

2 Building
Shaw AFB
Sumter SC 29152
Landholding Agency: Air Force
Property Number: 18201320054
Status: Unutilized
Directions: 1036, 1826
Comments: off-site removal only; no future agency need; sf. varies; poor conditions; secured area, contact AF for more info.

4 Buildings
Shaw AFB
Sumter SC 29152
Landholding Agency: Air Force
Property Number: 18201320055
Status: Underutilized
Directions: 1027,1028,2451,1034
Comments: off-site removal only; no AF future need; sf. varies; poor conditions; secured area; contact AF for more info.

Building 1036
311 Avocet Street, Street, Shaw AFB
Sumter SC 29152
Landholding Agency: Air Force
Property Number: 18201320086
Status: Unutilized
Comments: off-site removal only; no future agency need; 1,694 sf.; open storage for auto hobby shop; repairs needed; secured area; contact AF for more info.

Building 1826
100 Shaw Dr., Shaw AFB
Sumter SC 29152
Landholding Agency: Air Force
Property Number: 18201320087
Status: Unutilized
Comments: off-site removal only; no future agency need; 984sf. wash rack; repairs needed; secured area; contact AF for more info.

430
JB Charleston
Charleston SC 29404
Landholding Agency: Air Force
Property Number: 18201430052
Status: Unutilized
Comments: off-site removal only; no future agency need; 500 sq. ft.; 9+ years old; fair to poor condition; secured area; contact Air force for more information.

6 Buildings
JB Charleston
Goose Creek SC 29445
Landholding Agency: Air Force
Property Number: 18201430067
Status: Underutilized
Directions: 747 (120 Sq. ft.); 1654 (29 sq. ft.); 1655 (49 sq. ft.); 64 (1,891 sq. ft.); 343 (16,200 sq. ft.); 344 (23,566 sq. ft.)
Comments: off-site removal only; no future agency need; removal may be difficult for 343 and 344; good to poor conditions; secured area; contact Air Force for more information.

Texas

3 Buildings
Dyess AFB
Dyess AFB TX 79602
Landholding Agency: Air Force
Property Number: 18201420052
Status: Unutilized
Directions: 4308; 4310; 5276
Comments: off-site removal only; no future agency need; poor conditions; secured area; contact AF for more information on a specific property & accessibility requirements.

Suitable/Available Properties

Land

Alaska

Parcel of Land
Joint Base Elmendorf Richardson
JBER AK 99506
Landholding Agency: Air Force
Property Number: 18201330011
Status: Underutilized
Comments: 20x20 (400sf.); secured area; must obtain a visitor's pass & have a gov't sponsor escort to access installation; contact Air Force for more info.

37,515 SF of Land
JBER-Elmendorf
JBER AK 99506
Landholding Agency: Air Force
Property Number: 18201340003
Status: Underutilized
Comments: restricted area; transferee must obtain a government sponsor to access property; contact Air Force for more info.

Florida

WBPA (9901/72441/99300)
9901 E. Pine Ave.
St. George Island FL 32328
Landholding Agency: Air Force
Property Number: 18201310041
Status: Excess
Comments: .34 acres; tower & fence needs to be removed; remote access; contact AF for more info.

99142 Land
Cocoa Beach Tracking Annex
Cocoa Beach FL 32931
Landholding Agency: Air Force
Property Number: 18201340041
Status: Unutilized
Comments: .31 acre; launch support; subject to storm tidal surges that may cause flooding; contact Air Force for more info.

Indiana

Fac. 775/776 Ceilometer
ILS Localizer
Cass County Rd. 950 S.
Galveston IN 46932
Landholding Agency: Air Force
Property Number: 18201410020
Status: Excess
Comments: 0.052 acres; contact Air Force for more information.

Suitable/Unavailable Properties

Building

Oklahoma

24 Buildings
Tinker AFB
Tinker AFB OK 73145
Landholding Agency: Air Force
Property Number: 18201310040
Status: Excess
Directions: 9005, 217, 222, 234, 803, 902, 903, 904, 905, 990, 994, 1001, 1096, 1110, 2128, 3333, 3805, 4005, 4008, 7005, 7007, 7037, 7038, 7041
Comments: sf. varies; fair to moderate conditions; currently bldgs. are unavailable because they are being utilized by the AF.

Building 4008
6285 Hilltop Rd.
Tinker AFB OK 73145
Landholding Agency: Air Force
Property Number: 18201320085
Status: Excess
Comments: 7,767 sf.; depot operations facility; fair conditions; not available due to existing AF need.

Unsuitable Properties

Building

Alabama

2 Buildings
Maxwell AFB
Maxwell AFB AL 36112
Landholding Agency: Air Force
Property Number: 18201310034
Status: Underutilized
Directions: 1450, 1451
Comments: secured military installation; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

3 Buildings
Visiting Officer Qtrs.
Gunter Annex AL 36114
Landholding Agency: Air Force
Property Number: 18201310035
Status: Underutilized
Directions: 1014, 1015, 1016
Comments: secured military installation; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Building 1411, Visiting Airman
635 McDonnell Street
Maxwell AFB AL 36114
Landholding Agency: Air Force
Property Number: 18201320009
Status: Underutilized
Comments: public access denied & no alter. w/out compromising nat'l sec.
Reasons: Secured Area

Unsuitable Properties

Building

Alabama

Building 122, Military Family
321 Hickory Street
Maxwell AFB AL 36112
Landholding Agency: Air Force
Property Number: 18201320012
Status: Underutilized
Comments: public access denied & no alter. w/out compromising nat'l sec.
Reasons: Secured Area

4 Facilities
20 Kelly Street
Maxwell AFB AL 36112

Landholding Agency: Air Force
Property Number: 18201320014
Status: Excess
Directions: 1073, 1074, 1075, 1076
Comments: public access denied & no alter. w/out compromising nat'l sec.
Reasons: Secured Area

Building 1128
Maxwell Air Force Base
Maxwell AL 36112
Landholding Agency: Air Force
Property Number: 18201430053
Status: Unutilized
Comments: public access denied and no alternative without compromising national security.
Reasons: Secured Area

4 Buildings
Maxwell air Force Base
Maxwell AL 36112
Landholding Agency: Air Force
Property Number: 18201430055
Status: Underutilized
Directions: 148; 1036; 902; 742
Comments: public access denied and no alternative without compromising national security.
Reasons: Secured Area

Alaska

10 Buildings
Flaxman Island
Flaxman Island AK
Landholding Agency: Air Force
Property Number: 18201320031
Status: Excess
Directions: 22, 23, 24, 41, 44, 4, 5, 100, 101, 105
Comments: public access denied & no alter. w/out compromising nat'l sec.
Reasons: Secured Area

Building 4
Flaxman Island
Flaxman Island AK
Landholding Agency: Air Force
Property Number: 18201320078
Status: Excess
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

2 Buildings
Eareckson Air Station
Eareckson, AS AK
Landholding Agency: Air Force
Property Number: 18201410010
Status: Unutilized
Directions: 452, 453
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

57433
Joint Base Elmendorf-Richardson
57433 Stevens Road
JBER-Richardson AK 99505
Landholding Agency: Air Force
Property Number: 18201420034
Status: Underutilized
Comments: public access denied and no alternative without compromising national security.
Reasons: Secured Area

Arizona

Building 1535-Credit Union W.
N. 138th Ave.
Glendale AZ 85309
Landholding Agency: Air Force
Property Number: 18201320001
Status: Excess
Comments: w/in secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

6 Buildings
Davis Monahan AFB
Tucson AZ 85707
Landholding Agency: Air Force
Property Number: 18201340028
Status: Underutilized
Directions: 127, 7410, 7411, 7413, 7416, 7412
Comments: located on a gated entry controlled military base; public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

18 Buildings
Davis Monahan
4855 S. Wickenburg Avenue
Tucson AZ 85707
Landholding Agency: Air Force
Property Number: 18201420016
Status: Underutilized
Directions: FBNV7613; FBNV7708; FBNV7713; FBNV2350; FBNV2550; FBNV3501; FBNV4065; FBNV7403; FBNV7409; FBNV7427; FBNV7431; FBNV7434; FBNV7435; FBNV7437; FBNV7446; FBNV7507; FBNV7513; FBNV7514
Comments: public access denied and no alternate without compromising national security.
Reasons: Secured Area

Arkansas

7 Buildings
Little Rock AFB
Little Rock AR 72099
Landholding Agency: Air Force
Property Number: 18201420037
Status: Unutilized
Directions: 840; 1383; 1389; 1397; 1398; 1432; 230
Comments: public access denied and no alternation without compromising national security.
Reasons: Secured Area

330
Little Rock AFB
330 Chief Williams Drive
Little Rock AR 72099
Landholding Agency: Air Force
Property Number: 18201420038
Status: Underutilized
Comments: public access denied and no alternation without compromising national security.
Reasons: Secured Area

California

2 Buildings
401 & 405 14th St.
Edwards AFB CA 93524
Landholding Agency: Air Force
Property Number: 18201230002
Status: Unutilized
Directions: 7177, 7179
Comments: public access not allowed; no alternative method to allow public access w/out comprising nat'l security.
Reasons: Secured Area

4259
741 Circle
Edwards AFB CA 93524
Landholding Agency: Air Force
Property Number: 18201230003
Status: Unutilized
Comments: public access not allowed; no alternative method to allow public access w/out comprising nat'l security.
Reasons: Secured Area

3 Buildings
Edwards AFB
Edwards AFB CA 93524
Landholding Agency: Air Force
Property Number: 18201230032
Status: Unutilized
Directions: 1412, 4203, 7020
Comments: located w/in restricted area where public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

26 Buildings
Eureka Hill Rd.
Point Arena Air CA
Landholding Agency: Air Force
Property Number: 18201240011
Status: Underutilized
Directions: 602,603,604,605,606,607,608, 609,610,611,612,613,614,615,616,617,618, 619,620,621,622,623,624,625,626,627
Comments: secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

21 Buildings
Eureka Hill Rd.
Point Arena Air CA
Landholding Agency: Air Force
Property Number: 18201240012
Status: Underutilized
Directions: 100,102,104,105,160,201,108, 202,203,206,220,221,222,225,228,217, 218,408,700,300,216
Comments: secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

ACFT DY RSCH
Edwards AFB
Edwards CA
Landholding Agency: Air Force
Property Number: 18201240016
Status: Unutilized
Comments: secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

ACFT RSCH ENG
Edwards AFB
Edwards CA
Landholding Agency: Air Force
Property Number: 18201240017
Status: Unutilized
Comments: secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Kennel Stray Animal
Edwards AFB
Edwards CA
Landholding Agency: Air Force
Property Number: 18201240018
Status: Excess

Comments: secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

10 Buildings
Fresno Yosemite Intern'l
Fresno CA 93727
Landholding Agency: Air Force
Property Number: 18201240036
Status: Excess
Directions: 2202,2203,2204,2206,2207,2208, 2217,2219,2221,2223
Comments: restricted area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

4 Buildings
Arnold/Grumman Ave.
Beale CA 95903
Landholding Agency: Air Force
Property Number: 18201310018
Status: Underutilized
Directions: 1057, 1058, 1226, 1152
Comments: w/in secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

4 Buildings
Edwards AFB
Edwards AFB CA 93523
Landholding Agency: Air Force
Property Number: 18201310053
Status: Underutilized
Directions: B1412, B1400, B4900, B8834
Comments: secured area; public access denied & no alternative w/out compromising nat'l security.
Reasons: Secured Area

Building 124
Defense Distribution, San Joaquin
Sharpe Site
Lathrop CA 95231
Landholding Agency: Air Force
Property Number: 18201330052
Status: Unutilized
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

4 Buildings
Vandenberg AFB
Vandenberg AFB CA 93437
Landholding Agency: Air Force
Property Number: 18201420036
Status: Unutilized
Directions: 533; 541; 11343; 21294
Comments: public access denied and no alternation without compromising national security.
Reasons: Secured Area

11 Buildings
Edwards AFB
Edwards CA
Landholding Agency: Air Force
Property Number: 18201430060
Status: Unutilized
Directions: 4250; 4251; 4560; 4976; 4979; 5206; 9020; 2670; 3611; 4226; 4249
Comments: public access denied and no alternative without compromising national security.
Reasons: Secured Area

3 Buildings
Vandenberg Air Force Base
Vandenberg CA 93437
Landholding Agency: Air Force
Property Number: 18201430064
Status: Unutilized
Directions: 886; 887; 189
Comments: public access denied and no alternative without compromising national security.
Reasons: Secured Area

Colorado

4 Buildings
Buckley AFB
Aurora CO 80011
Landholding Agency: Air Force
Property Number: 18201230017
Status: Underutilized
Directions: B1504, B1503, B1502, B1501
Comments: located w/in secured area where public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Building 1615
1390 S. Chucara Street
Aurora CO 80011
Landholding Agency: Air Force
Property Number: 18201320028
Status: Unutilized
Comments: public access denied & no alter. method w/out compromising nat'l sec.
Reasons: Secured Area

B/2001
Range 123W.-Prairie
Pueblo West CO 81007
Landholding Agency: Air Force
Property Number: 18201330035
Status: Underutilized
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Building 814, Backley AF Base
120 Vail Street
Building 814
Aurora CO 80011
Landholding Agency: Air Force
Property Number: 18201420012
Status: Underutilized
Comments: public access denied and no alternate without compromising national security.
Reasons: Secured Area

3 Buildings
Peterson AFB
Peterson CO 80914
Landholding Agency: Air Force
Property Number: 18201420035
Status: Unutilized
Directions: 600; 681; 1281
Comments: public access denied and no alternation without compromising national security.
Reasons: Secured Area

5229
5229 Cedar Drive
USAF Academy CO 80840
Landholding Agency: Air Force
Property Number: 18201420043
Status: Unutilized
Comments: public access denied and no alternation without compromising national security.
Reasons: Secured Area

Building 106
106 NORAD Road,
Cheyenne Mountain AFB
Colorado Springs CO 80914
Landholding Agency: Air Force
Property Number: 18201420046
Status: Unutilized
Comments: public access denied and no alternation without compromising national security.
Reasons: Secured Area

Delaware

2 Buildings
Dover AFB
Dover DE 19902
Landholding Agency: Air Force
Property Number: 18201230018
Status: Underutilized
Directions: 3499,899
Comments: located w/in secured area where public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Building 2818
2600 Spruance Dr.
New Castle DE 19720
Landholding Agency: Air Force
Property Number: 18201310050
Status: Unutilized
Comments: secured area; public access denied & no alternative w/out compromising nat'l security.
Reasons: Secured Area

2 Buildings
null
Dover AFB
Dover DE 19902–6600
Landholding Agency: Air Force
Property Number: 18201420041
Status: Excess
Directions: 267; 302
Comments: public access denied and no alternation without compromising national security.
Reasons: Secured Area

4 Buildings
Dover AFB
Dover DE 19901
Landholding Agency: Air Force
Property Number: 18201430063
Status: Underutilized
Directions: 459; 709; 710; 713
Comments: public access denied & no alternative without compromising National security.
Reasons: Secured Area

Facilities 28407 & 28411
1656 Lighthouse Rd.
Cape Canaveral FL 32925
Landholding Agency: Air Force
Property Number: 18201220009
Status: Excess
Comments: nat'l security concerns; public access denied & no alternative method to gain access w/out comprising nat'l security.
Reasons: Secured Area

10 Buildings
Cape Canaveral
Cape Canaveral FL 32925
Landholding Agency: Air Force
Property Number: 18201220039
Status: Excess
Directions: 28411, 28415, 44500, 49928, 28401, 24445, 24404, 24403, 1715, 70540

Comments: nat'l security concerns; public access denied & no alternative method to gain access w/out comprising nat'l security.
Reasons: Secured Area

3 Buildings
MacDill AFB
MacDill FL 33621
Landholding Agency: Air Force
Property Number: 18201230009
Status: Unutilized
Directions: 1205, 1149, 1135
Comments: located w/in secured area where public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

10 Buildings
Samuel C. Philips Pkwy
Cape Canaveral AFB FL 32925
Landholding Agency: Air Force
Property Number: 18201230014
Status: Excess
Directions: 84922,84920,67900,60535,60534,1361, 40906,56623,36004,17705
Comments: located w/in secured area where public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Facility 49800
15030 Samuel C. Phillips Pkwy
Cape Canaveral FL 32925
Landholding Agency: Air Force
Property Number: 18201230019
Status: Excess
Comments: located w/in secured area where public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Bldg. 1132
Transmitter Rd.
MacDill AFB FL 33621
Landholding Agency: Air Force
Property Number: 18201230021
Status: Unutilized
Comments: located w/in secured area where public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Bldg. 297
8005 Hillsborough Loop Dr.
MacDill FL 33621
Landholding Agency: Air Force
Property Number: 18201230049
Status: Underutilized
Comments: located w/in secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

4 Buildings
Fighter Wing, FL ANGB
Jacksonville FL 32218
Landholding Agency: Air Force
Property Number: 18201240028
Status: Underutilized
Directions: 1014,1015,1016,1017
Comments: property located on a gated entry controlled military base; public access denied & no alternative to gain access w/ out compromising nat'l security.
Reasons: Secured Area

3 Buildings
Tyndall AFB
Tyndall FL 32403
Landholding Agency: Air Force
Property Number: 18201310012
Status: Unutilized
Directions B122, B123, 920
Comments: located w/in secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

21 Buildings
Cape Canaveral AFS
Cape Canaveral AFS FL 32925
Landholding Agency: Air Force
Property Number: 18201310032
Status: Unutilized
Directions: 1627, 2826, 2842, 4120, 5414, 7006, 7850, 8602, 15832, 28403, 28404, 28408, 28409, 28414, 28420, 28422, 28423, 28425, 28502, 28504, 36001
Comments: secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

5 Buildings
Kennedy Space Ctr. Communications
Kennedy Space Ctr. FL 32815
Landholding Agency: Air Force
Property Number: 18201310033
Status: Unutilized
Directions: 29115, 29120, 29139, 29142, 95401
Comments: secured area; public access denied & no alternative method without compromising nat'l security.
Reasons: Secured Area

12 Buildings
Florida Ave.
Tyndall AFB FL 32403
Landholding Agency: Air Force
Property Number: 18201310061
Status: Underutilized
Directions: 6030, 6022, 6021, 6020, 6016, 6014, 6025, 6023, 6028, 9706, 9704, 9719
Comments: secured area; public access denied & no alternative method w/out compromising nat'l security.
Reasons: Secured Area

6027 CE Shop/DRMO
302 Florida Ave.
Tyndall AFB FL 32403
Landholding Agency: Air Force
Property Number: 18201310062
Status: Excess
Comments: secured area; public access denied & no alternative method w/out compromising nat'l security.
Reasons: Secured Area

5 Building
MacDill AFB
MacDill AFB FL 33621
Landholding Agency: Air Force
Property Number: 18201320051
Status: Underutilized
Directions: 827, 826, 694, 550, 13
Comments: Not accessible to public; no alter. to gain access w/out compromising nat'l sec.
Reasons: Secured Area

3 Building
MacDill AFB
MacDill AFB FL 33621
Landholding Agency: Air Force
Property Number: 18201320052
Status: Underutilized
Directions: 1107, 65, 60
Comments: Not accessible to public; no alter. to gain access w/out compromising nat'l sec.
Reasons: Secured Area

2 Buildings
MacDill AFB
MacDill AFB FL 33671
Landholding Agency: Air Force
Property Number: 18201320065
Status: Unutilized
Directions: 1153, 1271
Comments: Public access denied & no alter. w/out compromising nat'l sec.
Reasons: Secured Area

Building 56636
755 Lighthouse Rd.
Cape Canaveral AFS FL 32925
Landholding Agency: Air Force
Property Number: 18201330020
Status: Unutilized
Comments: Public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

4 Buildings
Cape Canaveral Air Force Station
Cape Canaveral FL 32925
Landholding Agency: Air Force
Property Number: 18201410002
Status: Unutilized
Directions: 60550, 55150, 1381, 28413
Comments: public access denied and no alternative to gain method to gain access w/out compromising national security.
Reasons: Secured Area

2 Buildings
MacDill AFB
MacDill FL 33621
Landholding Agency: Air Force
Property Number: 18201410028
Status: Underutilized
Comments: Public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Hawaii

2 Buildings
Wake Island
Wake Island HI 96898
Landholding Agency: Air Force
Property Number: 18201330009
Status: Unutilized
Directions: 01406, 01403
Comments: Public access denied & no alternative to gain access w/out compromising nat'l security.
Reasons: Secured Area

Building 102
Wake Island Airfield
Wake Island HI 96898
Landholding Agency: Air Force
Property Number: 18201330047
Status: Unutilized
Comments: 100 present of the property located in floodway; not contained or corrected.
Reasons: Floodway

Joint Base Pearl Harbor Hickam
Installation N62813
325 Gardner Ave.

Pearl Harbor HI 96853
Landholding Agency: Air Force
Property Number: 18201330048
Status: Unutilized
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Idaho

Fac. 291
Bomber Rd.
MHAFB ID 83648
Landholding Agency: Air Force
Property Number: 18201240013
Status: Unutilized
Comments: secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Illinois

3 Buildings
Scott AFB
Scott AFB IL 62225
Landholding Agency: Air Force
Property Number: 18201220034
Status: Unutilized
Directions: 1984, 1985, 530
Comments: high security active duty installation; nat'l security concerns; public access denied & no alternative method to gain access w/out comprising nat'l security.
Reasons: Secured Area

B1508
107 Bucher St.
Scott AFB IL 62225
Landholding Agency: Air Force
Property Number: 18201230023
Status: Excess
Comments: authorized access only; restricted area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Building 509
611 South Drive
Scott AFB IL 62225
Landholding Agency: Air Force
Property Number: 18201310009
Status: Unutilized
Comments: located w/in secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

2 Buildings
Scott AFB
Scott AFB IL 62225
Landholding Agency: Air Force
Property Number: 18201320029
Status: Unutilized
Directions: 3270, 4900
Comments: high security active duty installation; public access denied & no alter. method w/out compromising nat'l sec.
Reasons: Secured Area

2 Buildings
Abraham Lincoln Capital Airport
Springfield IL 62707
Landholding Agency: Air Force
Property Number: 18201330031
Status: Excess
Directions: 124, 5
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Bldg. 155
Scott AFB
Scott IL 62225
Landholding Agency: Air Force
Property Number: 18201340022
Status: Unutilized
Comments: public access denied & no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Petroleum Operations Laboratory
RPUID 404858
Abraham Lincoln Capital Airport
Springfield IL 62707
Landholding Agency: Air Force
Property Number: 18201430068
Status: Unutilized
Directions: 183rd Fighter Wing, 3101J
Comments: public access denied and no alternative w/out compromising security.
Reasons: Secured Area

Indiana

Facilities 99 &1371
Stor Igloos
Terre Haute IN 47803
Landholding Agency: Air Force
Property Number: 18201220019
Status: Unutilized
Comments: nat'l security concerns; public access denied & no alternative method to gain access w/out comprising nat'l security.
Reasons: Secured Area

Kansas

Building 985
McConnell AFB
Wichita KS 67221
Landholding Agency: Air Force
Property Number: 18201330021
Status: Underutilized
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Louisiana

3 Buildings
Barksdale AFB
Barksdale AFB LA 71110
Landholding Agency: Air Force
Property Number: 18201220032
Status: Unutilized
Directions: 5724, 7318, 7136
Comments: nat'l security concerns; public access denied & no alternative method to gain access w/out comprising nat'l security.
Reasons: Secured Area

B–5485
Barksdale AFB
Barksdale LA 71110
Landholding Agency: Air Force
Property Number: 18201330040
Status: Unutilized
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

B–4359
745 Douhet Street
Barksdale AFB
Barksdale LA 71110
Landholding Agency: Air Force
Property Number: 18201420011
Status: Underutilized
Comments: public access denied and no alternate without compromising national security.
Reasons: Secured Area

Maine

Building 421
Bangor Intern'l Airport
Bangor ME 04401
Landholding Agency: Air Force
Property Number: 18201320057
Status: Excess
Comments: public access & no alters. w/out compromising nat'l sec.
Reasons: Secured Area

Building 495
104 Glenn Ave.
Bangor ME 04401
Landholding Agency: Air Force
Property Number: 18201320059
Status: Excess
Comments: public access denied & no alters. w/out compromising nat'l sec.
Reasons: Secured Area

Maryland

2 Buildings
Martin State Airport
Baltimore MD 21220
Landholding Agency: Air Force
Property Number: 18201220022
Status: Excess
Directions: 1120 & 1121
Comments: nat'l security concerns; public access denied & no alternative method to gain access w/out comprising nat'l security.
Reasons: Secured Area

9 Buildings
Joint Base Andrews
Joint base Andrews MD 20762
Landholding Agency: Air Force
Property Number: 18201340034
Status: Unutilized
Directions: 4942, 4952, 4962, 4963, 4964, 4971, 4972, 4973, 4982
Comments: no entry to military installation w/out DoD ID; public access denied & no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

2 Buildings
Joint Base Andrews
Joint Base Andrews MD 20762
Landholding Agency: Air Force
Property Number: 18201420032
Status: Unutilized
Directions: 1600; 1642
Comments: public access denied and no alternative without compromising national security.
Reasons: Secured Area

4 Buildings
Joint Base Andrews
JBA MD 20762
Landholding Agency: Air Force
Property Number: 18201430058
Status: Unutilized
Directions: 1418; 1522; 1524; 1527

Comments: public access denied & no alternative without compromising National Security.
Reasons: Secured Area

Massachusetts

137 Pump House
Reilly House
OTIS ANGB MA
Landholding Agency: Air Force
Property Number: 18201230048
Status: Excess
Comments: located w/in secured area public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

3 Buildings
175 Falcon Dr.
Westfield MA 01085
Landholding Agency: Air Force
Property Number: 18201240026
Status: Excess
Directions: 16, 35, 28
Comments: located on secured area; public access denied & no alternative methods to gain access w/out compromising nat'l security.
Reasons: Secured Area

2 Building
50 Maple Street
Milford MA 01757
Landholding Agency: Air Force
Property Number: 18201320056
Status: Excess
Directions: 100 & 101
Comments: public access denied & no alter. w/out compromising Nat'l sec.
Reasons: Secured Area

Building #75001 (I-Gate)
South Outer Rd.
Otis AFB MA
Landholding Agency: Air Force
Property Number: 18201430075
Status: Excess
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Michigan

3 Building
Bunker Road
Selfridge MI 48045
Landholding Agency: Air Force
Property Number: 18201420054
Status: Unutilized
Directions: 1451; 1452; 1453
Comments: public access denied and no alternative without compromising national security.
Reasons: Secured Area

Mississippi

Bldg. 21005
6225 M St.
Meridian MS 39307
Landholding Agency: Air Force
Property Number: 18201230046
Status: Unutilized
Comments: access limited to military personnel only; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Building 630
713 Lockhart
Columbus MS 39710
Landholding Agency: Air Force
Property Number: 18201230060
Status: Underutilized
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Building 115
CRTC Gulfport
Gulfport MS 39507
Landholding Agency: Air Force
Property Number: 18201330002
Status: Excess
Comments: public access denied & no alter. method w/out compromising Nat'l sec.
Reasons: Secured Area

Missouri

Building 115
10800 Lambert Int'l Blvd.
St. Louis MO 63044
Landholding Agency: Air Force
Property Number: 18201310004
Status: Unutilized
Comments: restricted military installation; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

N. Mariana Island

Building 2001/RG CON HSE
Range 123 W.—Prairie
Pueblo West CQ 81007
Landholding Agency: Air Force
Property Number: 18201330005
Status: Underutilized
Comments: public access denied & no alter. method w/out compromising nat'l sec.
Reasons: Secured Area

Nebraska

Building 670
1111 West Oak Ave.
Lincoln NE 68524
Landholding Agency: Air Force
Property Number: 18201320084
Status: Unutilized
Comments: 100% of property located in floodway; floodway has not been correct or contained.
Reasons: Floodway

New Hampshire

PEASE ANGB
302 New market St.
Newington NH 03803
Landholding Agency: Air Force
Property Number: 18201230043
Status: Unutilized
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

New Mexico

EOD Bldg. 805
RPUID443909
Holloman NM 88330
Landholding Agency: Air Force
Property Number: 18201430059
Status: Unutilized
Comments: located within military airfield & public access denied without no alternative without compromising National Security.
Reasons: Secured Area; Within airport runway clear zone

20226
Kirtland AFB
Kirtland NM 87117
Landholding Agency: Air Force
Property Number: 18201430065
Status: Unutilized
Comments: public access denied & no alternative without compromising National Security.
Reasons: Secured Area

New York

3 Buildings
Hancock Field ANG IAP
Syracuse NY 13211
Landholding Agency: Air Force
Property Number: 18201410014
Status: Unutilized
Directions: 600, 641, 617
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Hancock IAP (ANG)
6001 E Molloy Rd. Building 617
Syracuse NY 13211
Landholding Agency: Air Force
Property Number: 18201430070
Status: Unutilized
Comments: public access denied and no alternative method w/out compromising national security.
Reasons: Secured Area

North Dakota

28 Building
JFSD Grand Forks AFB
Grand Folks ND 58205
Landholding Agency: Air Force
Property Number: 18201320043
Status: Unutilized
Directions: 702,727,728,729,730, 731,733,726,725,724,723,722,720,719,718, 717,715,714,713,712,711,709,708,707, 706,705,703,704
Comments: not accessible to public & no alter. w/out compromising nat'l sec.
Reasons: Secured Area

Ohio

6 Buildings
Wright-Patterson AFB
Wright-Patterson AFB OH 45433
Landholding Agency: Air Force
Property Number: 18201420042
Status: Excess
Directions: 20189; 10286; 20198; 30053; 20064; 20068
Comments: public access denied and no alternation without compromising national security.
Reasons: Secured Area
Facility 30150
Wright-Patterson
WPAFB OH 45433
Landholding Agency: Air Force
Property Number: 18201430054
Status: Excess
Comments: public access denied & no alternative without compromising National Security.
Reasons: Secured Area

Oklahoma

Facility 47

Altus AFB
AGGN OK 73523
Landholding Agency: Air Force
Property Number: 18201230030
Status: Excess
Comments: public access denied due to anti-terrorism/force protection & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Facility 47
501 North First St.
Altus OK 73523
Landholding Agency: Air Force
Property Number: 18201240022
Status: Excess
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

2 Buildings
Altus AFB
Altus OK 73523
Landholding Agency: Air Force
Property Number: 18201310051
Status: Unutilized
Directions: 267, 335
Comments: secured area; public access denied & no alternative w/out compromising nat'l security.
Reasons: Secured Area

460
7460 Arnold Avenue
Tinker AFB OK 73145
Landholding Agency: Air Force
Property Number: 18201420045
Status: Excess
Comments: public access denied and no alternation without compromising national security.
Reasons: Secured Area

4 Buildings
Tinker AFB
Tinker AFB OK 73145
Landholding Agency: Air Force
Property Number: 18201420047
Status: Underutilized
Directions: 238; 265; 1039; 7015
Comments: buildings are not reloadable; public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

8 Buildings
Tinker AFB
Tinker AFB OK 73145
Landholding Agency: Air Force
Property Number: 18201420048
Status: Excess
Directions: 1035; 1162; 1036; 1086; 1088; 1122; 1131; 3123
Comments: buildings are not reloadable; public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Oregon

Building 1004
6801 NE Cornfoot Rd.
Portland OR 97218
Landholding Agency: Air Force
Property Number: 18201240025
Status: Unutilized
Comments: located on secured areea; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Building 188
6801 NE Cornfoot Road
Portland OR 97218
Landholding Agency: Air Force
Property Number: 18201320064
Status: Unutilized
Comments: public access denied & no alter. method w/out compromising nat'l sec.
Reasons: Secured Area

Building 370
Portland IAP TQKD (ANG)
Portland OR 97218
Landholding Agency: Air Force
Property Number: 18201330045
Status: Unutilized
Comments: public access denied & no alternative to gain access w/out compromising nat'l security.
Reasons: Secured Area

Pennsylvania

Pa Ang Bldg. 1–66
Ft. Indiantown Gap AGS, LKLW
Annville PA 17003
Landholding Agency: Air Force
Property Number: 18201330051
Status: Excess
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Pa Ang Bldg. 1–66
Fort Indiantown Gap
AGS, LKLW
Annville PA 17003
Landholding Agency: Air Force
Property Number: 18201340018
Status: Excess
Comments: public access denied & no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Puerto Rico

Fac. 79; Muniz IAP (ANG) TUMR
200 JoseA (Tony) Santana Ave.
Carolina PR 00979
Landholding Agency: Air Force
Property Number: 18201430073
Status: Unutilized
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Fac. 74; Muniz IAP (ANG); TUMR
200 JoseA (Tony) Santana Ave.
Carolina PR 00979
Landholding Agency: Air Force
Property Number: 18201430074
Status: Unutilized
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

South Carolina

Bldg. 211
110 Graves Ave.
Joint Base Charleston SC 29404
Landholding Agency: Air Force
Property Number: 18201230055
Status: Unutilized
Comments: located in restricted area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

DKGV 822
JB Charleston
Goose Creek SC 29445
Landholding Agency: Air Force
Property Number: 18201340010
Status: Unutilized
Comments: public access denied & no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

DKGV 43
JB Charleston
Goose Creek SC 29445
Landholding Agency: Air Force
Property Number: 18201340011
Status: Underutilized
Comments: public access denied & no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

South Dakota

Building 80
1201 W Algonquin St.
Sioux Falls SD 57104
Landholding Agency: Air Force
Property Number: 18201330003
Status: Excess
Comments: public access denied & no alter. method w/out compromising Nat'l sec.
Reasons: Secured Area

Building 80
LUXC Joe Foss Field
Sioux Falls SD 57104
Landholding Agency: Air Force
Property Number: 18201330039
Status: Excess
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Tennessee

Bldg. 708
Nashville IAP
Nashville TN 37217
Landholding Agency: Air Force
Property Number: 18201230059
Status: Underutilized
Comments: authorized military personnel only; restricted area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Building 712
240 Knapp Blvd.
Nashville TN 37217
Landholding Agency: Air Force
Property Number: 18201240024
Status: Excess
Comments: located on secured area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Building 750
South Fourth St.
Arnold AFB TN 37389
Landholding Agency: Air Force
Property Number: 18201240037
Status: Excess
Comments: located on secured area where public access denied & no alternative

method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Facilities 1470 & 1485
Arnold AFB
Arnold AFB TN 37389
Landholding Agency: Air Force
Property Number: 18201310063
Status: Excess
Comments: secured area public access denied & no alternative method w/out compromising nat'l security.
Reasons: Secured Area

Building 131
320 Post Ave. McGhee Tyson
Louisville TN 37777
Landholding Agency: Air Force
Property Number: 18201320045
Status: Unutilized
Comments: secured military installation; public access denied & no alter. method w/ out compromising nat'l sec.
Reasons: Secured Area

Building 13
320 Post Ave. McGhee Tyson
Louisville TN 37777
Landholding Agency: Air Force
Property Number: 18201320046
Status: Excess
Comments: secured military installation, public access denied & no alter. w/out compromising nat'l sec.
Reasons: Secured Area

Bldg. 425, Viewing Stand
PSXE (McGhee Tyson Airport)
Louisville TN 37777
Landholding Agency: Air Force
Property Number: 18201340019
Status: Underutilized
Comments: public access denied & no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Building 241
McGhee Tyson Apartment
Louisville TN 37777
Landholding Agency: Air Force
Property Number: 18201420013
Status: Excess
Comments: public access denied and no alternate without compromising national security.
Reasons: Secured Area

18 Buildings
Davis Monahan
4855 S. Wickenburg Avenue
Tucson TN 85707
Landholding Agency: Air Force
Property Number: 18201420014
Status: Underutilized
Comments: public access denied and no alternate without compromising national security.
Reasons: Secured Area

Building 3000, HQ MAJOR CMD
320 Post Avenue
McGhee Tyson ANG Base
Louisville TN 37777
Landholding Agency: Air Force
Property Number: 18201420018
Status: Excess
Comments: public access denied and no alternate without compromising national security.
Reasons: Secured Area

Building 106, Comm Fclty
320 Post Avenue
McGhee Tyson ANG Base
Louisville TN 37777
Landholding Agency: Air Force
Property Number: 18201420021
Status: Excess
Comments: public access denied and no alternate without compromising national security.
Reasons: Secured Area

Building 2120
Arnold AFB
2120 Gossick Road
Arnold TN 37389
Landholding Agency: Air Force
Property Number: 18201420033
Status: Underutilized
Comments: public access denied and no alternative without compromising national security.
Reasons: Secured Area

Building 1433
Arnold AFB
1433 S. Fifth Street
Arnold TN 37389
Landholding Agency: Air Force
Property Number: 18201420040
Status: Unutilized
Comments: public access denied and no alternation without compromising national security.
Reasons: Secured Area

TEXAS

11 Buildings
Ft. Sam Houston
San Antonio TX 78234
Landholding Agency: Air Force
Property Number: 18201220014
Status: Unutilized
Directions: 1149, 1151, 1152, 1153, 1154, 1158, 1159, 1160, 1161, 1162, 1163
Comments: nat'l security concerns; public access denied & no alternative method to gain access w/out comprising nat'l security.
Reasons: Secured Area

12 Buildings
Ft. Sam Houston
San Antonio TX 78234
Landholding Agency: Air Force
Property Number: 18201220015
Status: Unutilized
Directions: 2410, 2411, 2412, 2425, 2427, 2429, 2430, 2432, 3551, 3552, 3553, 3557
Comments: nat'l security concerns; public access denied & no alternative method to gain access w/out comprising nat'l security.
Reasons: Secured Area

Bldg. 1092
Sheppard AFB
Sheppard AFB TX 76311
Landholding Agency: Air Force
Property Number: 18201220029
Status: Unutilized
Comments: nat'l security concerns; public access denied & no alternative method to gain access w/out comprising nat'l security.
Reasons: Secured Area

Shop A/M Org. B00054
251 Fourth Ave.
Del Rio TX 78843
Landholding Agency: Air Force
Property Number: 18201310058
Status: Unutilized
Comments: located on military installation; public access denied & no alternative method w/out compromising nat'l security.
Reasons: Secured Area

5 Buildings
Dyess AFB
Dyess AFB TX 76907
Landholding Agency: Air Force
Property Number: 18201420051
Status: Unutilized
Directions: 8032; 7422; 6112; 5019; 4317
Comments: buildings are not reloadable; public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

1402; FWJH
Sneider
Houston TX 77034
Landholding Agency: Air Force
Property Number: 18201430072
Status: Excess
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Virginia

Bldg. 1994
Eagle Ave
Hampton VA 23665
Landholding Agency: Air Force
Property Number: 18201220024
Status: Underutilized
Comments: nat'l security concerns; public access denied & no alternative method to gain access w/out comprising nat'l security.
Reasons: Secured Area

9 Buildings
Langley AFB
Langley AFB VA 23665
Landholding Agency: Air Force
Property Number: 18201220027
Status: Underutilized
Directions: 1092, 1093, 1094, 1095, 1096, 1097, 1098, 750, 51
Comments: nat'l security concerns; public access denied & no alternative method to gain access w/out comprising nat'l security.
Reasons: Secured Area

Building 37
48 Dogwood Avenue
Hampton VA 23665
Landholding Agency: Air Force
Property Number: 18201330024
Status: Underutilized
Comments: active military installation; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Building 297
Sweeney Blvd.
Hampton VA 23665
Landholding Agency: Air Force
Property Number: 18201330027
Status: Excess
Comments: public access denied & no alternative method to gain access w/out compromising nat'l security.

Reasons: Secured Area

Washington

2428
Fairchild
Fairchild WA 99011
Landholding Agency: Air Force
Property Number: 18201430057
Status: Underutilized
Comments: public access denied & no alternative without compromising National Security.
Reasons: Secured Area

Wyoming

3 Buildings
FE Warren AF
Cheyenne WY 82005
Landholding Agency: Air Force
Property Number: 18201240020
Status: Unutilized
Directions: 1166, 2277, 835
Comments: restricted area; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Unsuitable Properties

Land

Alaska

12.28 Acres
Joint Base Elmendorf
Richardson
JBER AK 99505
Landholding Agency: Air Force
Property Number: 18201410016
Status: Underutilized
Comments: 100% of property located w/in an airport runway clear zone.
Reasons: Within airport runway clear zone

46 Acres
Joint Base Elmendorf
Richardson
JBER-Elmendorf AK 99506
Landholding Agency: Air Force
Property Number: 18201410017
Status: Underutilized
Comments: 100% of property located w/in an airport runway clear zone.
Reasons: Within airport runway clear zone

Land
JBER
JBER AK 99506
Landholding Agency: Air Force
Property Number: 18201420044
Status: Underutilized
Directions: 40x40 parcel; 10.46 acres; 14.71 acres; 63.21 acres
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

50x50 Parcel of Land
Joint Base Elmendorf-Richardson
JBF–R AK 99506
Landholding Agency: Air Force
Property Number: 18201430062
Status: Underutilized
Comments: public access denied & no alternative without compromising National Security.
Reasons: Secured Area

Florida

8 Buildings
null
Tyndall AFB FL 32403
Landholding Agency: Air Force
Property Number: 18201310011
Status: Underutilized
Directions: 205, 207, 214, 748, 1277, 1279, 1280, 1476
Comments: restricted military installation; public access denied & no alternative method to gain access w/out compromising nat'l security.
Reasons: Secured Area

Massachusetts

Parking Lot
Hanscom AFB
Hanscom MA 01731
Landholding Agency: Air Force
Property Number: 18201410004
Status: Underutilized
Comments: public access denied and no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

New Jersey

7.0 Acres land for training
Rounds & Lansdowne Roads
JBMDL NJ 08733
Landholding Agency: Air Force
Property Number: 18201320023
Status: Excess
Comments: public access denied & no alter. w/out compromising nat'l sec.
Reasons: Secured Area

Oklahoma

7 Buildings
Tinker AFB
Tinker AFB OK 73145
Landholding Agency: Air Force
Property Number: 18201420049
Status: Unutilized
Directions: 1013; 7006; 7001; 1010; 1016; 1034; 7028
Comments: buildings are not reloadable; public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

[FR Doc. 2014–22046 Filed 9–18–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[DR.5B711.IA000814]

Renewal of Agency Information Collection for Class III Tribal-State Gaming Compact Process

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Acting Assistant Secretary—Indian Affairs is seeking comments on the renewal of Office of Management and Budget (OMB) approval for the collection of information for Class III Tribal-State Gaming Compact Process, 25 CFR 293, authorized by OMB Control Number 1076–0172. This information collection expires January 31, 2015.

DATES: Submit comments on or before November 18, 2014.

ADDRESSES: You may submit comments on the information collection to Paula Hart, U.S. Department of the Interior, Office of Indian Gaming, 1849 C Street NW., Mail Stop 3657, Washington, DC 20240; email: *Paula.Hart@BIA.gov.*

FOR FURTHER INFORMATION CONTACT: Paula Hart, 202–219–4066.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Assistant Secretary—Indian Affairs is seeking renewal of the approval for the information collection conducted under 25 CFR part 293, Class III Tribal-State Gaming Compact Process and the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. 2710(d)(8)(A), (B) and (C), which authorizes the Secretary to approve, disapprove or ''consider approved'' (i.e., deemed approved) a tribal state gaming compact or compact amendment and publish notice of that approval or considered approval in the **Federal Register**.

II. Request for Comments

The Assistant Secretary—Indian Affairs requests your comments on this collection concerning: (a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it displays a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. Before including your address, phone number, email address or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

III. Data

OMB Control Number: 1076–0172.

Title: Class III Tribal-State Gaming Compact Process.

Brief Description of Collection: The information collected includes tribal-state compacts or compact amendments entered into by Indian tribes and State governments. The Secretary of the Interior reviews this information and may approve, disapprove or consider the compact approved.

Type of Review: Extension without change of currently approved collection.

Respondents: Indian tribes and State governments.

Number of Respondents: 32 per year, on average.

Frequency of Response: Once.

Estimated Time per Response: 360 hours.

Estimated Total Annual Hour Burden: 11,520 hours.

Estimated Total Annual Non-Hour Dollar Costs: $0.

Dated: September 16, 2014.

Phillip Brinkley,

Assistant Director for Information Resources.

[FR Doc. 2014–22436 Filed 9–18–14; 8:45 am]

BILLING CODE 4310–4M–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[AAK30000000/145A2100DD/ A0H501010.999900]

Renewal of Agency Information Collection for the Bureau of Indian Affairs Housing Improvement Program

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of submission to OMB.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Assistant Secretary—Indian Affairs is submitting to the Office of Management and Budget (OMB) a request for renewal for the collection of information for the BIA Housing Improvement Program. The information collection is currently authorized by OMB Control Number 1076–0084, which expires October 31, 2014.

DATES: Interested persons are invited to submit comments on or before October 20, 2014.

ADDRESSES: You may submit comments on the information collection to the Desk Officer for the Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–5806 or you may send an email to: *OIRA_Submission@omb.eop.gov.* Please send a copy of your comments to Les Jensen, Bureau of Indian Affairs, 1849 C Street NW., Mail Stop 4513, Washington, DC 20240; facsimile: (907) 586–7044; email: *Leslie.Jensen@bia.gov.*

FOR FURTHER INFORMATION CONTACT: Les Jensen, telephone: (907) 586–7397. You may review the information collection request online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Bureau of Indian Affairs (BIA) is seeking renewal for the information collection conducted under 25 CFR part 256, Housing Improvement Program, to determine applicant eligibility for housing improvement program services and to determine priority order in which eligible applicants may receive the program services. Approval for this collection expires on October 31, 2014. The information collection includes an application form. No changes are being made to the form or to the approved burden hours for this information collection.

II. Request for Comments

The BIA requests your comments on this collection concerning: (a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. Before including your address, phone number, email address or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

III. Data

OMB Control Number: 1076–0084.

Title: Bureau of Indian Affairs Housing Improvement Program, 25 CFR 256.

Brief Description of Collection: Submission of this information allows BIA to determine applicant eligibility for housing services based upon the criteria referenced in 25 CFR 256.9 (repairs and renovation assistance) and 256.10 (replacement housing assistance). Enrolled members of federally recognized tribes, who live within a tribe's designated and approved service area, submit information on an application form. The information is collected on a BIA Form 6407, ''Housing Assistance Application,'' and includes:

A. Applicant Information including: Name, current address, telephone number, date of birth, social security number, tribe, roll number, reservation, marital status, name of spouse, date of birth of spouse, tribe of spouse, and roll number of spouse.

B. Family Information including: Name, date of birth, relationship to applicant, and tribe/roll number.

C. Income Information: Earned and unearned income.

D. Housing Information including: Location of the house to be repaired, constructed, or purchased; description of housing assistance for which applying; knowledge of receipt of prior Housing Improvement Program assistance, amount to whom and when; ownership or rental; availability of electricity and name of electric company; type of sewer system; water source; number of bathroom facilities.

E. Land Information including: Landowner; legal status of land; or type of interest in land.

F. General Information including: Prior receipt of services under the Housing Improvement Program and description of such; ownership of other housing and description of such; identification of Housing and Urban Development-funded house and current status of project; identification of other sources of housing assistance for which the applicant has applied and been denied assistance, if applying for a new housing unit or purchase of an existing standard unit; and advisement and description of any severe health problem, handicap or permanent disability.

G. Applicant Certification including: Signature of applicant and date, and signature of spouse and date.

A response is required to obtain a benefit.

Type of Review: Extension without change of currently approved collection.

Respondents: Individuals.

Number of Respondents: 8,000 per year, on average.

Total Number of Responses: 8,000 per year, on average.

Frequency of Response: Once.

Estimated Time per Response: 1 hour.

Estimated Total Annual Hour Burden: 8,000 hours.

Estimated Total Annual Non-Hour Dollar Cost: $0.

Dated: September 15, 2014.

Christine Cho,

Acting Deputy Director for Information Resources.

[FR Doc. 2014–22440 Filed 9–18–14; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[14XL LLWY9200000.L51010000.ER0000. LVRWK09K0990.241A.00; 4500069121; IDI–35849]

Notice of Intent To Prepare a Supplemental Environmental Impact Statement and Possible Land Use Plan Amendments for Segments 8 and 9 of the Gateway West 500-kV Transmission Line Project in Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) Idaho State Office announces its intention to prepare a supplemental environmental impact statement (EIS) analyzing the potential impacts of approving a right-of-way (ROW) application for Segments 8 and 9 of the Gateway West 500-kilovolt (kV) Transmission Line Project and possible land use plan amendments. The supplemental EIS will be prepared in accordance with the National Environmental Policy Act of 1969, as amended (NEPA). The supplemental EIS is being prepared based on new information described in the **SUPPLEMENTARY INFORMATION** section of this notice. The BLM issued a Record of Decision (ROD) for the project on November 14, 2013. In that ROD, the BLM deferred offering a ROW grant for two of the 10 segments—Segments 8 and 9—to allow additional time for Federal, State, and local permitting agencies to examine additional options regarding siting route segments and mitigation and enhancement measures for those segments.

DATES: This notice initiates a 30-day public scoping period that will assist in the preparation of a draft supplemental EIS. Comments may be submitted in writing until October 20, 2014, or 15 days after the date of the last public scoping meeting, whichever is later.

To provide the public an opportunity to review the proposal and project information, the BLM expects to hold four public meetings in Idaho communities during the scoping period. The BLM will announce the exact dates, times, and locations for these meetings at least 15 days prior to each event. Announcements will be made by news release to the media, newsletter mailings, and posting on the project Web site listed below.

ADDRESSES: You may submit comments or resource information related to the project by any of the following methods:

- Web site: *http://www.blm.gov/id/st/en/prog/nepa_register/gateway-west.html*
- Email: *blm_id_gateway_west@blm.gov*
- Mail: Bureau of Land Management Idaho State Office, Gateway West Transmission Project, 1387 South Vinnell Way, Boise, ID 83709

FOR FURTHER INFORMATION CONTACT: Heather Feeney, BLM Boise District Office, 3948 Development Avenue, Boise, ID 83705; phone 208–384–3325; or email to *blm_id_gateway_west@blm.gov.* Contact Ms. Feeney if you wish to have your name added to the project mailing list. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact Ms. Feeney during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Documents pertinent to this proposal may be examined at:

- Bureau of Land Management, Idaho State Office, Public Room, 1387 South Vinnell Way, Boise, ID 83709, Telephone: 208–373–3863.
- Bureau of Land Management, Boise District Office, 3948 Development Avenue, Boise, ID 83705, Telephone: 208–384–3300.
- Online: *http://www.blm.gov/id/st/en/prog/nepa_register/gateway-west.html.*

PacifiCorp, dba Rocky Mountain Power, and Idaho Power (Applicants) have submitted a ROW application to locate 500-kilovolt (kV) electric transmission lines on Federal lands as part of the Gateway West Transmission Line Project. The initial application proposed to construct electric transmission lines from the Windstar Substation near the Dave Johnston Power Plant at Glenrock, Wyoming, to the Hemingway Substation near Melba, Idaho, approximately 20 miles southwest of Boise, Idaho. The original project comprised 10 transmission line segments with a total length of approximately 1,000 miles. The November 2013 ROD authorized routes on Federal lands for Segments 1 through 7 and Segment 10 but deferred a decision for Segments 8 and 9. The Applicants submitted a revised project application for Segments 8 and 9. This notice announces that the BLM, Idaho State Office, intends to prepare a supplemental EIS for Segments 8 and 9 of the Gateway West Transmission Line Project and begins the scoping process to seek public input on new issues and resource information related to Segments 8 and 9, described below. Analysis in the supplemental EIS will support a decision on whether to approve, approve with modifications, or deny the revised ROW application for Segments 8 and 9.

In November 2013, the BLM requested the Boise District Resource Advisory Council (RAC) to consider issues surrounding siting Segments 8 and 9 of the Gateway West Transmission Line Project. As proposed, these segments would traverse portions of the BLM Boise District in and around the Morley Nelson Snake River Birds of Prey National Conservation Area (NCA), as well as on private lands. The RAC, a citizen-based council chartered under Section 309 of the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act, advises and makes recommendations to the BLM on resource and public land management issues in southwestern Idaho. The RAC formed a subcommittee to examine options for resolving remaining issues associated with siting Segments 8 and 9. On June 5, 2014, the RAC provided the BLM with the report on alternative route options and resource considerations for Segments 8 and 9. On August 8, 2014, the Applicants formally adopted routes recommended by a majority of the subcommittee as their proposed routes for the supplemental EIS in a revised project application that modifies the Applicants' original proposal. These updated proposed routes, a double-circuit design feature (see below), and additional mitigation measures are major components of the new information now available for public scoping.

The Applicants' proposed route for each of the two segments has been modified from the 2013 BLM Preferred Route west of approximate midway points, identified as ''nodes'' in reports submitted by the RAC. Maps that

accompanied the revised project application are available on the BLM project Web site, listed above. For Segment 8, the Applicants' new proposed route still begins at the existing Midpoint Substation and continues west past the communities of Hammett and Mountain Home to the north. However, just north of the town of Orchard, the new proposed route for Segment 8 diverges from the 2013 BLM Preferred Route to generally parallel the existing Summer Lake 500-kV transmission line 250 feet to the south for 5.1 miles before turning northwest, and then crosses the existing line at milepost 7.1.

The new proposed route for Segment 8 enters the NCA at milepost 99. The Applicants have determined that the separation distance between the existing and proposed transmission lines within the NCA could be reduced to approximately 250 feet for a 28.7-mile portion of Segment 8. From milepost 7.1, the new proposed route generally parallels the existing line 250 feet to the north for the remaining distance (30 miles) into the Hemingway Substation, near the town of Melba. The total route length would be 38 miles, of which 22.9 miles would be within the NCA. This route would also require a partial rebuild of approximately 3,000 feet of the existing Summer Lake line. The Applicants propose to use existing roads near and beneath the existing 500-kV transmission line to reduce the overall disturbance footprint of the new line. Rather than constructing a new access road network for the new proposed route for Segment 8, they would use short spur roads from existing roads to access the new towers.

For Segment 9, the Applicants' updated proposed route still starts at the proposed Cedar Hill Substation and passes south of the communities of Twin Falls, Castleford, and Hammett, before diverging from the 2013 BLM Preferred Route just east of the town of Bruneau, and then entering the NCA at milepost 132, north of the towns of Grand View, Oreana, and Murphy before terminating at the Hemingway Substation, near the town of Melba. The Applicants' new proposed route generally follows the Alternative 9G route studied in detail in the 2013 Final EIS. The total route length would be 68.5 miles, of which 53.8 miles would be within the NCA. The updated proposed route for Segment 9 would involve constructing approximately 25.6 miles of new double-circuit 500/138-kV transmission line using steel pole H-frame structures.

The NCA lies in the western portion of the Gateway West project area. The NCA was established under Public Law 103–64, which states: ''The purposes for which the conservation area is established, and shall be managed, are to provide for the conservation, protection, and enhancement of raptor populations and habitats and the natural and environmental resources and values associated therewith, and of the scientific, cultural, and educational resources and values of the public lands in the conservation area.''

Following publication of the Notice of Availability for the Gateway West Final EIS on April 26, 2013 (78 FR 24771), the Applicants submitted a draft Mitigation and Enhancement Portfolio (MEP) to the BLM. The MEP contains proposed mitigation, including compensatory mitigation, and other measures intended to enhance resources and values found in the NCA. The Applicants presented the draft MEP to the RAC subcommittee and updated it in response to the subcommittee's final report; the MEP has not yet been formally reviewed by the public. The most current MEP is considered part of the proponent's newly submitted plan of development for analysis in the supplemental EIS and is now being made available during the scoping process as new information for the supplemental EIS. The MEP will be described in detail at the public scoping meetings and is available on the project Web site at *http://www.blm.gov/id/st/en/prog/nepa_register/gateway-west.html.*

The BLM is the lead Federal agency for the NEPA analysis process and preparation of the supplemental EIS. The State of Idaho, local government entities, and Federal agencies with specialized expertise and/or jurisdictional responsibilities in the area of Segments 8 and 9 will be invited to participate as cooperating agencies.

The purpose of public scoping is to determine relevant issues that will influence the scope of the environmental analysis. The BLM will invite and provide for full public participation and comment on issues, potential impacts, mitigation measures, and alternatives associated with granting ROWs on public lands for segments 8 and 9 that were not addressed in the original EIS. At present, the BLM has identified the following issues and concerns:

- Effects to the objects and values for which the NCA was designated;
- Land use conflicts and inconsistency with land use plans;
- Effects of the project on local and regional socioeconomic conditions;
- Effects on wildlife habitat, plants, and animals, including threatened, endangered, and sensitive species;
- Effects to visual resources and existing viewsheds;
- Effects to historic and cultural resources;
- Effects to Indian trust assets;
- Opportunities to apply mitigation strategies for on-site, regional, and compensatory mitigation; and
- Siting on private lands versus public lands.

If authorized, this proposal may require amendment of one or more BLM land use plans (resource management plans (RMPs) or management framework plans (MFPs)). By this notice, the BLM is complying with requirements outlined in 43 CFR 1610.2(c) that the BLM notify the public of potential amendments to land use plans. If an RMP or MFP amendment is necessary, the BLM will integrate the land use planning process with the NEPA analysis process for this project.

If the ROWs are granted, BLM land use plans that may be amended include the Twin Falls MFP, the Jarbidge RMP, the Morley Nelson Snake River Birds of Prey RMP, the Bennett Hills/Timmerman Hills MFP and the Kuna MFP.

The BLM will supplement the analysis found in the Gateway West Transmission Line Project final environmental impact statement (FEIS) released April 26, 2013, by analyzing the Applicants' updated proposed routes for Segments 8 and 9 and no action alternatives, as well as other possible alternatives to the proposed power line locations and access routes, based on information gathered from the public during scoping. The BLM will use the NEPA process to identify and disclose impacts to the above resources not analyzed in the FEIS and any additional issues or resources found through the scoping process. Further, the BLM will identify opportunities to mitigate the impacts of siting and building Segments 8 and 9, if granted, by incorporating avoidance, minimization, and compensation measures with consideration of local and regional conditions and commensurate with the scope of the impacts. In addition, opportunities for enhancement of objects and values within the NCA will be evaluated, in accordance with Public Law 103–64, the statute which established the NCA.

Preliminary planning criteria for any RMP or MFP amendments include: (1) FLPMA and subsequent BLM land use plans; (2) Public Law 103–64, which established the Snake River Birds of Prey National Conservation Area (officially named the Morley Nelson Snake River Birds of Prey National Conservation Area in Public Law 111–

11, the Omnibus Public Lands Management Act of 2009); (3) The Endangered Species Act, as amended and (4) the analysis found in the FEIS.

The BLM encourages comments concerning the Applicants' new proposed routes for Segments 8 and 9, the routes previously analyzed in the FEIS, feasible alternative locations, possible mitigation and enhancement measures, and any other information relevant to the proposed action. You may submit comments in writing to the BLM at any public scoping meeting or at any time by using one of the methods listed in the **ADDRESSES** section of this notice. Public scoping meetings will be conducted in an ''open house'' format with the BLM staff and project Applicants available to explain project details and gather information from interested individuals or groups. You should submit comments by the close of the 30-day scoping period or 15 days after the last public meeting, whichever is later.

The BLM will reach out to the consulting parties who participated in and/or signed the Programmatic Agreement (PA) for Segments 1–7, and 10 to assist the agency in satisfying the public involvement requirements under Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470(f)) pursuant to 36 CFR 800.2(d)(3). The information about historic and cultural resources within the area potentially affected by the proposed action will assist the BLM in identifying and evaluating impacts to such resources in the context of both NEPA and Section 106 of the NHPA. The information received will be used to modify the PA to clearly capture the issues and mitigation for Segments 8 and 9.

The BLM will consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed action that the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the environmental analysis as a cooperating agency.

All comment submittals must include the commenter's name and street address. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. The minutes and list of attendees for each scoping meeting will be available to the public and open for 30 days after the meeting to any participant who wishes to clarify the views he or she expressed.

Any persons wishing to be added to a mailing list of interested parties can call or write to BLM, as described in this notice. Additional information meetings may be conducted throughout the process to keep the public informed of the progress of the supplemental EIS.

Authority: 40 CFR 1501.7 and 43 CFR 1610.2.

Timothy M. Murphy,

BLM Idaho State Director.

[FR Doc. 2014–22408 Filed 9–18–14; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOS00000 L12200000.DF0000 14X]

Notice of Public Meetings, Southwest Colorado Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Southwest Colorado Resource Advisory Council (RAC) is scheduled to meet as indicated below.

DATES: The Southwest Colorado RAC meeting will be held on November 7, 2014, in Montrose, Colorado.

ADDRESSES: The Southwest Colorado RAC meetings will be held November 7, 2014, at the Montrose Public Lands Center, 2465 S. Townsend Ave., Montrose, CO 81401. The meetings will begin at 9 a.m. and adjourn at approximately 4 p.m. A public comment period regarding matters on the agenda will be held at 11:30 a.m.

FOR FURTHER INFORMATION CONTACT: Lori Armstrong, BLM Southwest District Manager, 970–240–5300; or Shannon Borders, Public Affairs Specialist, 970–240–5300; 2505 S. Townsend Ave., Montrose, CO 81401. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, seven 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 Southwest Colorado RAC advises the Secretary of the Interior, through the BLM, on a variety of public land issues in Colorado. Topics of discussion for all Southwest Colorado RAC meetings may include field manager and working group reports, recreation, fire management, land use planning, invasive species management, energy and minerals management, travel management, wilderness, land exchange proposals, cultural resource management and other issues as appropriate.

These meetings are open to the public. The public may present written comments to the RACs. Each formal RAC meeting will also have time, as identified above, allocated for hearing public comments. Depending on the number of people wishing to comment and time available, the time for individual oral comments may be limited.

Ruth Welch,

BLM Colorado State Director.

[FR Doc. 2014–22356 Filed 9–18–14; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[MMAA 104000]

Outer Continental Shelf (OCS), Gulf of Mexico (GOM), Oil and Gas Lease Sales, Central Planning Area (CPA) Lease Sales 235, 241, and 247

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of Availability (NOA) of the Final Supplemental Environmental Impact Statement (EIS).

Authority: This NOA is published pursuant to the regulations (40 CFR part 1503) implementing the provisions of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*).

SUMMARY: BOEM has prepared a Final Supplemental EIS for proposed OCS oil and gas Lease Sales 235, 241, and 247, which are tentatively scheduled to be held in March 2015, 2016, and 2017, respectively, in the Gulf of Mexico CPA offshore the States of Louisiana,

Mississippi, and Alabama. This Final Supplemental EIS updates the environmental and socioeconomic analyses for proposed CPA Lease Sales 235, 241, and 247 evaluated in the *Gulf of Mexico OCS Oil and Gas Lease Sales: 2012–2017; Western Planning Area Lease Sales 229, 233, 238, 246, and 248; Central Planning Area Lease Sales 227, 231, 235, 241, and 247, Final Environmental Impact Statement* (OCS EIS/EA BOEM 2012–019) (2012–2017 WPA/CPA Multisale EIS) and in the *Gulf of Mexico OCS Oil and Gas Lease Sales: 2013–2014; Western Planning Area Lease Sale 233; Central Planning Area Lease Sale 231, Final Supplemental Environmental Impact Statement* (OCS EIS/EA BOEM 2013–0118) (WPA 233/CPA 231 Supplemental EIS).

SUPPLEMENTARY INFORMATION: BOEM developed this Final Supplemental EIS for proposed CPA Lease Sales 235, 241, and 247 to consider new information made available since completion of the 2012–2017 WPA/CPA Multisale EIS and WPA 233/CPA 231 Supplemental EIS, and to consider new information on the *Deepwater Horizon* incident. This Final Supplemental EIS updates the baseline conditions and potential environmental effects of oil and natural gas leasing, exploration, development, and production in the CPA. BOEM conducted an extensive search for new information, reviewing scientific journals and available scientific data and information from academic institutions and Federal, State, and local agencies; and interviewing personnel from academic institutions and Federal, State, and local agencies. BOEM has examined the potential impacts of routine activities and accidental events and the proposed lease sales' incremental contribution to the cumulative impacts on environmental and socioeconomic resources. The oil and gas resource estimates and scenario information for this Final Supplemental EIS are presented as a range that would encompass the resources and activities estimated for a proposed CPA lease sale.

Final Supplemental EIS Availability: BOEM has printed and will distribute a limited number of paper copies. In keeping with the Department of the Interior's mission of the protection of natural resources and to limit costs while ensuring availability of the document to the public, BOEM will primarily distribute digital copies of the Final Supplemental EIS on compact discs. However, if you require a paper copy, BOEM will provide one upon request if copies are still available.

You may obtain a copy of the Final Supplemental EIS from the Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, Public Information Office (GM 335A), 1201 Elmwood Park Boulevard, Room 250, New Orleans, Louisiana 70123–2394 (1–800–200–GULF).

You may also download or view the Final Supplemental EIS on BOEM's Internet Web site at *http://www.boem.gov/nepaprocess/.*

Several libraries along the Gulf Coast have been sent copies of the Final Supplemental EIS. To find out which libraries have copies of the Final Supplemental EIS for review, you may contact BOEM's Public Information Office or visit BOEM's Internet Web site at *http://www.boem.gov/nepaprocess/.*

FOR FURTHER INFORMATION CONTACT: For more information on the Final Supplemental EIS, you may contact Mr. Gary D. Goeke, Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, Office of Environment (GM 623E), 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394 or by email at *cpa235@boem.gov.* You may also contact Mr. Goeke by telephone at 504–736–3233.

Dated: August 20, 2014.

Walter D. Cruickshank,

Acting Director, Bureau of Ocean Energy Management.

[FR Doc. 2014–21993 Filed 9–18–14; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR02142500, 14XR0680A2, RX.08634999.1000000]

Notice of Availability of the Final Resource Management Plan and Environmental Impact Statement for the Contra Loma Reservoir and Recreation Area, Antioch, CA—Central Valley Project

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation (Reclamation) has prepared a Final Resource Management Plan and Environmental Impact Statement (RMP/EIS) for the Contra Loma Reservoir and Recreation Area to establish uniform policy and land management guidelines that promote an organized use, development, and management of the Contra Loma Reservoir and the surrounding recreational area lands.

DATES: Reclamation will not make a decision on the proposed action until at least 30 days after release of the Final RMP/EIS. After the 30-day waiting period, Reclamation will complete a Record of Decision (ROD). The ROD will state the action that will be implemented and will discuss all factors leading to the decision.

ADDRESSES: Written comments on the Final RMP/EIS should be sent to Mr. David Woolley, Bureau of Reclamation, 1243 N Street, SCC–450, Fresno, California, 93720; or via email to *dwoolley@usbr.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. David Woolley, Bureau of Reclamation, at the above address; via email at *dwoolley@usbr.gov;* or at (559) 487–5049. The Final RMP/EIS will be available from the following Web site: *http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=6396.* See the Supplementary Information section for locations where copies of the Final RMP/EIS are available for public review.

SUPPLEMENTARY INFORMATION: The Final RMP/EIS will guide future land resources management to ensure land and waters of the United States are maintained and protected as provided for under the authorizing purposes over a given period of time. This process is intended to establish uniform policy and land management guidelines that promote an organized use, development, and management of the Contra Loma Reservoir and the surrounding recreational area lands. These areas will be compatible with scenic surroundings and applicable Federal and State laws. An RMP incorporates into one document all the information pertinent to the future guidance of a management area and may serve as, but not limited to, the basis for future resource decision making for the management area. The RMP is to chart the biological, physical, and social condition that Reclamation desires to see once all the RMP management actions have been implemented. In addition, the RMP provides sufficient detailed ways to efficiently and equitably provide recreational opportunities to meet public demand within its intended planning lifespan.

A Notice of Availability of the Draft EIS/EIR was published in the **Federal Register** on May 2, 2014 (79 FR 25151). The comment period on the Draft RMP/EIS ended on July 1, 2014. The Final RMP/EIS contains responses to all comments received and reflects comments and any additional information received during the review period.

Copies of the RMP/FEIS are available for public review at the following locations:

• Antioch Library, Antioch, CA 94509.
• Natural Resources Library, Department of the Interior, 1849 C Street NW.,
Main Interior Building, Washington, DC 20240.
• Bureau of Reclamation, South Central California Area Office, 1243 N Street, Fresno, CA 93720.
• Mid-Pacific Regional Library, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825.

Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in any correspondence, you should be aware that your entire correspondence—including your personal identifying information—may be made publicly available at any time. While you can ask us in your correspondence to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated. August 14, 2014.

Brenda Bryant,

Assistant Regional Director, Mid-Pacific Region.

[FR Doc. 2014–22350 Filed 9–18–14; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–503–504 (Final)]

Monosodium Glutamate From China and Indonesia; Termination of Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: On April 7, 2014, the Department of Commerce published notice in the **Federal Register** of termination of the countervailing duty investigations in connection with monosodium glutamate from China and Indonesia (79 FR 19056). Accordingly, pursuant to section 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the countervailing duty investigations concerning monosodium glutamate from China and Indonesia (Inv. Nos. 701–TA–503–504 (Final)) are terminated.

DATES: *Effective Date:* April 7, 2014.

FOR FURTHER INFORMATION CONTACT: Amy Sherman (202–205–3289), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*).

Authority: These investigations are being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 201.10 of the Commission's rules (19 CFR 201.10).

By order of the Commission.

Issued: September 15, 2014.

Jennifer D. Rohrbach,

Supervisory Attorney.

[FR Doc. 2014–22318 Filed 9–18–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0058]

Agency Information Collection Activities: Proposed eCollection eComments Requested; Investigator Integrity Questionnaire

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-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. This proposed information collection was previously published in the **Federal Register** Volume 79, Number 138, page 42052 on July 18, 2014, allowing for a 60 day comment period.

DATES: The purpose of this notice is to allow for an additional 30 days for public comment until October 20, 2014.

FOR FURTHER INFORMATION CONTACT: If you have 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, Bureau of Alcohol, Tobacco, Firearms and Explosives, 99 New York Avenue NE., Washington, DC 20226. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or send email to *OIRA_submission@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
• Enhance the quality, utility, and clarity of the information to be collected; and
• 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 1140–0058

(1) *Type of Information Collection:* Extension of an existing collection.

(2) *Title of the Form/Collection:* Investigator Integrity Questionnaire.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 8620.7.

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: Individual or households.

Other: None.

Abstract: ATF utilizes the services of contract investigators to conduct security/suitability investigations on prospective or current employees, as well as those contractors and consultants doing business with ATF. Persons interviewed by contract investigators will be randomly selected to voluntarily complete a questionnaire regarding the investigator's degree of professionalism.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to*

respond: An estimated 2,500 respondents will take 5 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 208 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., Room 3E–405B, Washington, DC 20530.

Dated: September 16, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–22352 Filed 9–18–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1117–0010]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Submission for OMB Approval: U.S. Official Order Forms—Schedules I & II (DEA Form 222)

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Drug Enforcement Administration (DEA), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** at 79 FR, pages 41705–41706, July 17, 2014, allowing for a 60 day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 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 Imelda Paredes, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, Virginia 22152. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submisisons@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Drug Enforcement Administration, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and/or

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* U.S. Official Order Forms—Schedules I & II.

3. *The agency form number:* DEA Form 222.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: Not-for-profit, Federal, State, local, or tribal government.

Abstract: The Controlled Substances Act (CSA) (21 U.S.C. 801–971) requires the Drug Enforcement Administration (DEA) to establish a closed system of distribution for substances that have a potential for abuse. Section 828 of the CSA mandates that no person may distribute a controlled substance in schedule I or II except in response to an order issued on a DEA provided form. The DEA regulations implementing 21 U.S.C. 828 can be found in 21 CFR part 1305.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The DEA estimates that 152,609 registrants participate in this information collection, taking an estimated 6.17 hours per registrant annually.

6. *An estimate of the total public burden (in hours) associated with the collection:* 942,315 annual burden 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: September 16, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–22353 Filed 9–18–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cable Television Laboratories, Inc.

Notice is hereby given that, on August 14, 2014, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Cable Television Laboratories, Inc. (''CableLabs'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Jiangsu Broadcasting Cable Information Network Corp. Ltd., Nanjing, PEOPLE'S REPUBLIC OF CHINA; Beijing Gehua CATV Co. Ltd., Beijing, PEOPLE'S REPUBLIC OF CHINA; and Vyve Broadband LLC, Purchase, NY, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CableLabs intends to file additional written notifications disclosing all changes in membership.

On August 8, 1988, CableLabs filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal**

Register pursuant to Section 6(b) of the Act on September 7, 1988 (53 FR 34593).

The last notification was filed with the Department on March 28, 2014. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 8, 2014 (79 FR 26455).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–22364 Filed 9–18–14; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJJDP) Docket No. 1674]

Meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention

AGENCY: Coordinating Council on Juvenile Justice and Delinquency Prevention, DOJ.

ACTION: Notice of meeting.

SUMMARY: The Coordinating Council on Juvenile Justice and Delinquency Prevention announces its next meeting.

DATES: *Date of Meeting:* Tuesday, November 18, 2014, from 10:30 a.m. to 12:30 p.m. (Eastern Time).

ADDRESSES: The meeting will take place in the third floor main conference room at the U.S. Department of Justice, Office of Justice Programs, 810 7th St. NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Visit the Web site for the Coordinating Council at *www.juvenilecouncil.com* or contact Kathi Grasso, Designated Federal Official (DFO), OJJDP, by telephone at 202–616–7567 (not a toll-free number) or via email: *Kathi.Grasso@usdoj.gov.* The meeting is open to the public.

SUPPLEMENTARY INFORMATION: The Coordinating Council on Juvenile Justice and Delinquency Prevention (''Council''), established by statute in the Juvenile Justice and Delinquency Prevention Act of 1974, section 206(a) (42 U.S.C. 5616(a)), will meet to carry out its advisory functions. Documents such as meeting announcements, agendas, minutes, and reports will be available on the Council's Web page, *www.juvenilecouncil.gov* where you may also obtain information on the meeting.

Although designated agency representatives may attend, the Council membership consists of the Attorney General (Chair), the Administrator of the Office of Juvenile Justice and Delinquency Prevention (Vice Chair), the Secretary of Health and Human Services (HHS), the Secretary of Labor (DOL), the Secretary of Education (DOE), the Secretary of Housing and Urban Development (HUD), the Director of the Office of National Drug Control Policy, the Chief Executive Officer of the Corporation for National and Community Service, and the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement. The nine additional members are appointed by the Speaker of the U.S. House of Representatives, the U.S. Senate Majority Leader, and the President of the United States. Other federal agencies take part in Council activities, including the Departments of Agriculture, Defense, Interior, and the Substance and Mental Health Services Administration of HHS.

Meeting Agenda: At this meeting, the Council will be joined by the Advisory Committee of the Attorney General's Task Force on American Indian and Alaska Native (AIAN) Children Exposed to Violence. Task Force Advisory Committee members will publicly release the findings and recommendations of their report to the Attorney General and members of the Coordinating Council. During the meeting, Council members will be afforded the opportunity to discuss these findings and recommendations with the Advisory Committee members.

The Attorney General's Task Force on AIAN Children Exposed to Violence is anchored by an Advisory Committee consisting of non-federal experts in the area of AIAN children exposed to violence and a Federal Working Group consisting of federal experts working in areas related to AIAN children exposed to violence. The Advisory Committee acts in accordance with the provisions of the Federal Advisory Committee Act as amended, 5 U.S.C. Appendix 2; and is charged specifically with investigating the issues of AIAN children exposed to violence in their homes, schools, and communities. To this end, the committee convened four public hearings across the country to collect information with the primary goal of developing policy and practice recommendations to be included in their final report to the Attorney General.

In summary, the agenda will include: (a) Welcome and introductions; (b) Presentations and discussion of the findings and recommendations of the Advisory Committee of the Attorney General's Task Force on American Indian and Alaska Native (AIAN) Children Exposed to Violence; and (c) and Agency/Practitioner Member announcements of pertinent programs and activities.

Registration: For security purposes, members of the public who wish to attend the meeting must pre-register online at *www.juvenilecouncil.gov,* no later than Wednesday, November 12, 2014. Should problems arise with web registration, contact Daryel Dunston at 240–432–3014 or send a request to register to Mr. Dunston. Please include name, title, organization or other affiliation, full address and phone, fax and email information and send to his attention either by fax to 866–854–6619, or by email to *ddunston@aeioonline.com.* Note that these are not toll-free telephone numbers. Additional identification documents may be required. Meeting space is limited.

Note: Photo identification will be required for admission to the meeting.

Written Comments: Interested parties may submit written comments and questions in advance of the meeting by Wednesday, November 12, 2014, to Kathi Grasso, Designated Federal Official for the Coordinating Council on Juvenile Justice and Delinquency Prevention, at *Kathi.Grasso@usdoj.gov.* Alternatively, fax your comments to 202–307–2819 and contact Joyce Mosso Stokes at 202–305–4445 to ensure that they are received. These are not toll-free numbers.

The Council expects that the public statements submitted will not repeat previously submitted statements.

Dated: September 15, 2014.

Robert L. Listenbee,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 2014–22361 Filed 9–18–14; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Advisory Board; Notice of Meeting

This notice announces a forthcoming meeting of the National Institute of Corrections (NIC) Advisory Board.

Name of the Committee: NIC Advisory Board.

General Function of the Committee: To aid the National Institute of Corrections in developing long-range plans, advise on program development, and recommend guidance to assist NIC's efforts in the areas of training, technical assistance, information services, and policy/program development assistance to Federal, state, and local corrections agencies.

Date and Time: 8:00 a.m.–4:45 p.m. on Monday, September 29, 2014; 8:00

a.m.–10:15 a.m. on Tuesday, September 30, 2014.

Location: National Institute of Corrections, 500 First Street NW., 2nd Floor, Washington, DC 20534, (202) 514–4222.

Contact Person: Shaina Vanek, Executive Assistant, National Institute of Corrections, 320 First Street NW., Room 5002, Washington, DC 20534. To contact Ms. Vanek, please call (202) 514–4222.

Agenda: On September 29–30, 2014, the Advisory Board will hear updates on the following topics: (1) Agency Report from the NIC Acting Director, (2) updates board division liaisons, (3) overview of key NIC reentry initiatives, (4) jail reformation trends, and (5) evaluation of program effectiveness/impact.

Procedure: On September 29–30, 2014, during the times noted above, the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before September 22, 2014. Oral presentations from the public will be scheduled between approximately 11:00 a.m. to 11:15 a.m. and 4:15 p.m. and 4:30 p.m. on September 29, 2014, and from 10:00 a.m. to 10:15 a.m. on September 30, 2014. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before September 22, 2014.

General Information: NIC welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Shaina Vanek at least 7 days in advance of the meeting. Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Robert M. Brown, Jr.,

Acting Director, National Institute of Corrections.

[FR Doc. 2014–20847 Filed 9–18–14; 8:45 am]

BILLING CODE 4410–36–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice of Centennial Challenges 2015 Mars Ascent Vehicle (MAV) Challenge

AGENCY: National Aeronautics and Space Administration (NASA).

Notice: (14–091). Notice of Centennial Challenges 2015 Mars Ascent Vehicle (MAV) Challenge.

SUMMARY: This notice is issued in accordance with 51 U.S.C. 20144(c). The Mars Ascent Vehicle (MAV) Challenge is scheduled and teams that wish to compete may now register. Centennial Challenges is a program of prize competitions to stimulate innovation in technologies of interest and value to NASA and the nation. The 2015 MAV Challenge is a prize competition designed to encourage development of new technologies or application of existing technologies in unique ways to autonomously collect and launch a sample cache using robotics and solid propulsion rocketry. NASA is providing the prize purse.

DATES: 2015 MAV Challenge will be held April 9–April 12, 2015.

ADDRESSES: 2015 MAV Challenge will be conducted at Bragg Farms located near Huntsville, Alabama.

FOR FURTHER INFORMATION CONTACT: To register for or get additional information regarding the 2015 MAV Challenge, please visit: *http://www.nasa.gov/mavprize.*

For general information on the NASA Centennial Challenges Program please visit: *http://www.nasa.gov/challenges.* General questions and comments regarding the program should be addressed to Sam Ortega, Centennial Challenges Program, NASA Marshall Space Flight Center, Huntsville, AL 35812. Email address: *hq-stmd-centennialchallenges@mail.nasa.gov.*

SUPPLEMENTARY INFORMATION:

Summary

Competitors will design, build, and operate an autonomous device that will robotically collect a sample cache, store it in a rocket, raise the rocket to a vertical launch position and insert the igniter into the solid rocket motor. The launching of the rocket will be activated manually and will fly to an altitude of 3,000 feet. The sample cache payload will be jettisoned at 1,000 feet and is required to return to Earth, like the rocket, using a passive recovery system so that it remains in a reusable condition.

I. Prize Amounts

The total MAV prize purse is $50,000 (fifty thousand U.S. dollars). Prizes will be offered for entries that meet specific requirements detailed in the Rules.

II. Eligibility

To be eligible to win a prize, competitors must;

(1) Register and comply with all requirements in the rules

(2) In the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States

(3) Not be a Federal entity or Federal employee acting within the scope of their employment.

III. Rules

The complete rules for the 2015 MAV Challenge can be found at: *http://www.nasa.gov/mavprize.*

Nanette Jennings,

NASA Federal Register Liaison Officer.

[FR Doc. 2014–22347 Filed 9–18–14; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice of Centennial Challenges 2015 Sample Return Robot (SRR) Challenge

AGENCY: National Aeronautics and Space Administration (NASA).

NOTICE: (14–095). Notice of Centennial Challenges 2015 Sample Return Robot (SRR) Challenge.

SUMMARY: This notice is issued in accordance with 51 U.S.C. 20144(c).

The Sample Return Robot (SRR) Challenge is scheduled and teams that wish to compete may now register. Centennial Challenges is a program of prize competitions to stimulate innovation in technologies of interest and value to NASA and the nation. The 2015 SRR Challenge is a prize competition designed to encourage development of new technologies or application of existing technologies in unique ways to autonomously collect and retrieve samples using robotics. NASA is providing the prize purse and Worcester Polytechnic Institute (WPI) is conducting the challenge.

DATES: 2015 SRR Challenge will be held June 8–13, 2015.

ADDRESSES: 2015 SRR Challenge will be conducted at Worcester Polytechnic Institute near Worcester, Massachusetts.

FOR FURTHER INFORMATION CONTACT: To register for or get additional information regarding the 2015 SRR Challenge, please visit: *http://www.nasa.gov/robotprize.* For general information on

the NASA Centennial Challenges Program please visit: *http://www.nasa.gov/challenges.* General questions and comments regarding the program should be addressed to Sam Ortega, Centennial Challenges Program, NASA Marshall Space Flight Center Huntsville, AL 35812. Email address: *hq-stmd-centennialchallenges@mail.nasa.gov.*

SUPPLEMENTARY INFORMATION:

Summary

Autonomous robot rovers will seek out samples and return them to a designated point in a set time period. Samples will be randomly placed throughout the roving area. They may be placed close to obstacles, both movable and immovable. Robots will be required to navigate over unknown terrain, around obstacles, and in varied lighting conditions to identify, retrieve, and return these samples. Winners will be determined based on the number of samples returned to the designated collection point as well as the value assigned to the samples.

I. Prize Amounts

The total Sample Return Robot Challenge purse is $1,500,000 (one million five hundred thousand U.S. dollars). Prizes will be offered for entries that meet specific requirements detailed in the Rules.

II. Eligibility

To be eligible to win a prize, competitors must;

(1) Register and comply with all requirements in the rules

(2) In the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States

(3) Not be a Federal entity or Federal employee acting within the scope of their employment

III. Rules

The complete rules and team agreement for the 2015 SRR Challenge can be found at: *http://wp.wpi.edu/challenge/.*

Nanette Jennings,

NASA Federal Register Liaison Officer.

[FR Doc. 2014–22348 Filed 9–18–14; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Board Meeting: U.S. Nuclear Waste Technical Review Board

October 29, 2014—The U.S. Nuclear Waste Technical Review Board will meet to discuss issues related to management of DOE spent nuclear fuel and high-level radioactive waste at SRS.

Pursuant to its authority under section 5051 of Public Law 100–203, Nuclear Waste Policy Amendments Act of 1987, the U.S. Nuclear Waste Technical Review Board will meet in Augusta, Georgia, on Wednesday, October 29, 2014, to review U.S. Department of Energy (DOE) activities related to managing DOE spent nuclear fuel (SNF) and high-level radioactive waste (HLW). Among the topics that will be discussed at the meeting is work underway at the Savannah River Site (SRS) in South Carolina related to storage and processing of DOE SNF and vitrification and storage of HLW at the SRS. The Nuclear Waste Policy Amendments Act (NWPAA) of 1987 charges the Board with conducting an ongoing and independent evaluation of the technical and scientific validity of DOE activities related to implementing the Nuclear Waste Policy Act of 1982.

The meeting will be held at the Marriott Hotel, Two Tenth Street, Augusta, Georgia 30901; Telephone 706–722–8900, Fax 706–724–0044. A block of rooms has been reserved for meeting attendees at the special rate of $91.00 per night. Reservations may be made by phone: 800–228–9290 or online: *http://www.marriott.com/meeting-event-hotels/group-corporate-travel/groupCorp.mi?resLinkData=US%20Nuclear%20Waste%5Eagsmc%60usausaa%6091%60USD%60false%6010/27/14%6010/30/14%6010/6/14&app=resvlink&stop_mobi=yes>.* Reservations must be made by October 10, 2014, to ensure receiving the meeting rate.

The meeting will begin at 8 a.m. on Wednesday, October 29, 2014, with a call to order and introductory statement by the Board Chairman and is scheduled to adjourn at 5:20 p.m. Topics that will be discussed at the meeting include issues related to storage of DOE SNF at the L Basin at SRS, alternatives for dry storage of DOE SNF at SRS, processing of DOE SNF, and issues related to aging of the facilities involved in these operations. The Board will also discuss vitrification of HLW and the storage of the vitrified waste, including production rates for HLW canisters and plans for a new vitrified waste storage facility.

A detailed meeting agenda will be available on the Board's Web site: *www.nwtrb.gov* approximately one week before the meeting. The agenda may also be requested by email or telephone at that time from Davonya Barnes of the Board's staff.

The meeting will be open to the public, and an opportunity for public comment will be provided at the end of the day. Those wanting to speak are encouraged to sign the ''Public Comment Register'' at the check-in table. Depending on the number of people who wish to speak, it may be necessary to set a time limit on individual remarks, but written comments of any length may be submitted for the record.

Transcripts of the meeting will be available on the Board's Web site no later than November 19, 2014. Copies may be requested for transmission by email, on computer disk, or in paper format from Davonya Barnes, at that time.

The Board was established in the NWPAA as an independent federal agency in the Executive Branch to review the technical and scientific validity of DOE activities related to implementing the NWPA and to provide objective expert advice to Congress and the Secretary of Energy on technical and scientific issues related to SNF and HLW management and disposal. Board members are experts in their fields and are appointed to the Board by the President from a list of candidates submitted by the National Academy of Sciences. The Board reports its findings, conclusions, and recommendations to Congress and the Secretary of Energy. All Board reports, correspondence, congressional testimony, and meeting transcripts and related materials are posted on the Board's Web site.

For information on the meeting agenda, contact Daniel Ogg: *ogg@nwtrb.gov* or Karyn Severson: *severson@nwtrb.gov.* For information on lodging or logistics, contact Linda Coultry: *coultry@nwtrb.gov.* To request copies of the meeting agenda or the transcript, contact Davonya Barnes: *bames@nwtrb.gov.* All four can be reached by mail at 2300 Clarendon Boulevard, Suite 1300; Arlington, VA 22201–3367; by telephone at 703–235–4473; or by fax at 703–235–4495.

Dated: September 15, 2014.

Nigel Mote,

Executive Director, U.S. Nuclear Waste Technical Review Board.

[FR Doc. 2014–22300 Filed 9–18–14; 8:45 am]

BILLING CODE P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2014–77; Order No. 2181]

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:* September 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:

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II. Notice of Commission Action
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I. Introduction

On September 12, 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. CP2014–77 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 September 22, 2014. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Lyudmila Bzhilyanskaya to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2014–77 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Lyudmila Bzhilyanskaya 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 September 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. 2014–22315 Filed 9–18–14; 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, September 12, 2014 (Notice).

POSTAL REGULATORY COMMISSION

[Docket No. CP2014–78; Order No. 2182]

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 negotiated service agreement 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:* September 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:

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I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

On September 12, 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. CP2014–78 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 September 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. CP2014–78 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 September 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. 2014–22314 Filed 9–18–14; 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, September 12, 2014 (Notice).

POSTAL REGULATORY COMMISSION

[Docket No. CP2014–72; Order No. 2184]

Amendment to Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an amendment to Priority Mail Contract 89 negotiated service agreement 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:* September 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 Filings
III. Ordering Paragraphs

I. Introduction

On September 12, 2014, the Postal Service filed notice that it has agreed to an Amendment to the existing Priority Mail Contract 89 negotiated service agreement approved in this docket.[1] In support of its Notice, the Postal Service includes a redacted copy of the Amendment.

The Postal Service also filed the unredacted Amendment under seal and asserts the initial financial documentation and certification provided remain applicable. *Id.* The Postal Service seeks to incorporate by reference the Application for Non-Public Treatment originally filed in this docket for the protection of information that it has filed under seal. *Id.*

The Amendment seeks to replace Section I.E in its entirety. *Id.,* Attachment A at 1.

The Postal Service intends for the Amendment to become effective one business day after the date that the Commission completes its review of the Notice. Notice at 1. The Postal Service asserts that the Amendment will not impair the ability of the contract to comply with 39 U.S.C. 3633. *See, Id.*

II. Notice of Filings

The Commission invites comments on whether the changes presented in the Postal Service's Notice are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than September 22, 2014. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Cassie D'Souza to represent the interests of the general public (Public Representative) in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission reopens Docket No. CP2014–72 for consideration of matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, the Commission appoints Cassie D'Souza to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments are due no later than September 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. 2014–22316 Filed 9–18–14; 8:45 am]

BILLING CODE 7710–FW–P

[1] Notice of United States Postal Service of Amendment to Priority Mail Contract 89, with Portions Filed Under Seal, September 12, 2014 (Notice).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. IC–31250; File No. 812–14293]

Evanston Alternative Opportunities Fund and Evanston Capital Management, LLC; Notice of Application

September 15, 2014.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under Section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from Sections 18(c) and 18(i) of the Act, and for an order pursuant to Section 17(d) of the Act and Rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of shares, units or interests (''Shares'') with varying sales loads and asset-based service and/or asset-based distribution fees.

APPLICANTS: Evanston Alternative Opportunities Fund (''Fund'') and Evanston Capital Management, LLC (''Adviser'').

DATES: *Filing Dates:* The application was filed on March 31, 2014, and amended on July 16, 2014 and on August 7, 2014.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 10, 2014 and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: Evanston Alternative Opportunities Fund and Evanston Capital Management, LLC, 1560 Sherman Avenue, Suite 960, Evanston, IL 60201.

FOR FURTHER INFORMATION CONTACT: Rochelle Kauffman Plesset, Senior Counsel, at (202) 551–6840, or Nadya Roytblat, Assistant Chief Counsel at (202) 551–0825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Fund is a Delaware statutory trust that is registered under the Act as a non-diversified, closed-end management investment company. The Fund's primary investment objective is to seek attractive long-term risk adjusted returns. The Fund is a ''fund of funds'' and seeks to achieve its objective by investing substantially all of its assets in investment vehicles, often referred to as ''hedge funds,'' that are managed by independent investment managers.

2. The Adviser is a Delaware limited liability company and is registered as an investment adviser under the Investment Advisers Act of 1940. The

Adviser serves as investment adviser to the Fund.

3. The Fund currently issues a single class of Shares (''Initial Class''). The Shares are continuously offered and are registered under the Securities Act of 1933. Shares of the Fund are not listed on any securities exchange, nor quoted on any quotation medium. The Shares are not offered or traded on a secondary market. In order to provide a limited degree of liquidity, the Fund may from time to time offer to repurchase Shares at their then-current net asset value pursuant to Rule 13e–4 under the Securities Exchange Act of 1934 (''Exchange Act''). Repurchases will be made at such times, in such amounts and on such terms as may be determined by the Fund's board of directors (''Board'') in its sole discretion. The Adviser expects to recommend ordinarily that the Board authorize the Fund to offer to repurchase Shares from shareholders quarterly.

4. The Fund's Initial Class is subject to a sales load, but is not subject to any service or distribution fee. Shareholders of the Initial Class are subject to a repurchase fee if the interval between the date of purchase of the Shares and the valuation date with respect to the repurchase of Shares is less than one year.

5. The Applicants seek an order to permit the Fund to issue multiple classes of Shares, with varying sales loads and asset-based service and/or asset-based distribution fees. Applicants request that the order also apply to any other continuously-offered registered closed-end management investment company existing now or in the future for which the Adviser or any entity controlling, controlled by, or under common control with the Adviser, acts as investment adviser, and which provides periodic liquidity to its Shares pursuant to Rule 13e–4 under the Exchange Act (together with the Fund, the ''Funds'').[1]

6. If the requested relief is granted, the Fund intends to offer multiple classes of Shares of the Fund. Each class would be offered at net asset value. Because of different class expenses, the net income attributable to, and any dividends payable on, each class of Shares may differ from each other from time to time. As a result, the net asset value per Share of the classes may differ over time.

7. Applicants represent that each new class of Shares may charge a front-end sales load and an annual asset-based service and/or distribution fee. Applicants further represent that any distribution fee would be paid pursuant to a plan of distribution adopted by the Fund in compliance with the provisions of Rules 12b–1 and 17d–3 under the Act as if those rules applied to closed-end management investment companies. In addition, any asset-based service fee and distribution fee for each class of Shares will comply with the provisions of NASD Rule 2830 (''NASD Sales Charge Rule'').[2] Any repurchase fee will apply equally to all shareholders of the Fund, regardless of the class, consistent with Section 18 of the Act and Rule 18f–3 under the Act.

8. Applicants state that the Fund does not currently intend to impose a contingent deferred sales load (''CDSC''). In the event that the Fund does impose a CDSC, however, Applicants represent that it would only do so in compliance with Rule 6c–10 under the Act as if the rule applied to closed-end management investment companies. With respect to any waiver of, scheduled variation in, or elimination of the CDSC, the Fund will comply with Rule 22d–1 under the Act as if the Fund were an open-end investment company and will be applied uniformly to all shareholders of the Fund.

9. Applicants represent that all expenses incurred by the Fund will be allocated among the various classes of Shares based on the net assets of the Fund attributable to each class, except that the net asset value and expenses of each class will reflect distribution fees, service fees, and any other expenses of that class. Expenses of the Fund allocated to a particular class of Shares will be borne on a pro rata basis by each outstanding Share of that class. Applicants state that each Fund will comply with the provisions of Rule 18f–3 under the Act as if it were an open-end investment company.

10. Applicants state that, from time to time, the Fund may create and offer additional classes of Shares, the terms of which may differ, including in the following respects: (i) The amount of fees permitted by different distribution plans and/or different service fee arrangements; (ii) voting rights with respect to a distribution plan and/or service plan of a class; (iii) different class designations; (iv) the impact of any class expenses directly attributable to a particular class of Shares allocated on a class basis as described in this application; (v) any differences in dividends and net asset values per Share resulting from differences in fees under a distribution plan and/or service plan or in class expenses; (vi) any sales load structure; and (vii) any conversion features as permitted under the Act.

11. Applicants state that any repurchase offers made by the Fund will be made to all classes of Shares at the same time, in the same proportional amounts and on the same terms, except for differences in net asset values per Share resulting from differences in fees under a distribution plan and/or service plan or in class expenses.

12. Applicants represent that the Fund will disclose in its prospectus the fees, expenses and other characteristics of each class of Shares offered for sale by the prospectus, as is required for open-end multiple class investment companies under Form N–1A. As is required for open-end management investment companies, the Fund will disclose its expenses in shareholder reports, and disclose any arrangements that result in breakpoints in, or elimination of, sales loads in its prospectus.[3] In addition, Applicants will comply with applicable enhanced fee disclosure requirements for fund of funds, including registered funds of hedge funds.[4]

13. The Fund will comply with any requirements that the Commission or FINRA may adopt regarding disclosure at the point of sale and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end investment company shares, and regarding prospectus disclosure of sales loads and revenue sharing arrangements as if those requirements applied to the Fund. In addition, each Fund will contractually require that any distributor of the Fund's Shares comply with such requirements in connection with the distribution of such Shares.

Applicants' Legal Analysis

Multiple Classes of Shares

1. Section 18(c) of the Act provides, in relevant part, that a closed-end

[1] Any Fund relying on this relief in the future will do so in a manner consistent with the terms and conditions of the application. Applicants represent that each entity presently intending to rely on the requested relief is listed in the application as an Applicant.

[2] Any reference to the NASD Sales Charge Rule includes any successor or replacement rule that may be adopted by the Financial Industry Regulatory Authority (''FINRA'').

[3] *See* Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Company Act Release No. 26372 (Feb. 27, 2004) (adopting release); Disclosure of Breakpoint Discounts by Mutual Funds, Investment Company Act Release No. 26464 (June 7, 2004) (adopting release).

[4] Fund of Funds Investments, Investment Company Act Rel. No. 27399 (Jun. 20, 2006) (adopting release). *See also* Rules 12d1–1, et seq. of the Act.

investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of shares of the Fund may be prohibited by Section 18(c), as a class may have priority over another class as to payment of dividends because shareholders of different classes would pay different fees and expenses.

2. Section 18(i) of the Act provides that each share of stock issued by a registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that multiple classes of Fund Shares may violate Section 18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

3. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under Section 6(c) from Sections 18(c) and 18(i) to permit the Fund to issue multiple classes of shares.

4. Applicants submit that the proposed allocation of expenses and voting rights among multiple classes is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed arrangements would permit a Fund to facilitate the distribution of its shares and provide investors with a broader choice of shareholder services. Applicants assert that the proposed closed-end investment company multiple class structure does not raise the concerns underlying Section 18 of the Act to any greater degree than open-end investment companies' multiple class structures that are permitted by Rule 18f–3 under the Act. Applicants state that each Fund will comply with the provisions of Rule 18f–3 as if it were an open-end investment company.

CDSCs

1. Applicants believe that the requested relief meets the standards of Section 6(c) of the Act. Rule 6c–10 under the Act permits open-end investment companies to impose CDSCs, subject to certain conditions. Applicants state that any CDSC imposed by the Fund will comply with Rule 6c–10 under the Act as if the rule were applicable to closed-end investment companies. The Fund also will disclose CDSCs in accordance with the requirements of Form N–1A concerning CDSCs as if the Fund were an open-end investment company. Applicants further state that the Fund will apply the CDSC (and any waivers or scheduled variations of the CDSC) uniformly to all shareholders in a given class and consistently with the requirements of Rule 22d–1 under the Act.

Asset-Based Service and/or Distribution Fees

1. Section 17(d) of the Act and Rule 17d–1 under the Act prohibit an affiliated person of a registered investment company or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under Section 17(d) and Rule 17d–1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d–3 under the Act provides an exemption from Section 17(d) and Rule 17d–1 to permit open-end investment companies to enter into distribution arrangements pursuant to Rule 12b–1 under the Act. Applicants request an order under Section 17(d) and Rule 17d–1 under the Act to the extent necessary to permit the Fund to impose asset-based service and/or distribution fees. Applicants have agreed to comply with Rules 12b–1 and 17d–3 as if those rules applied to closed-end investment companies.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Each Fund relying on the order will comply with the provisions of Rules 6c–10, 12b–1, 17d–3, 18f–3 and 22d–1 under the Act, as amended from time to time, as if those rules applied to closed-end management investment companies, and will comply with the NASD Sales Charge Rule, as amended from time to time, as if that rule applied to all closed-end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–22339 Filed 9–18–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73094; File No. SR–BYX–2014–018]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing of a Proposed Rule Change to Rules 11.9 of BATS Y-Exchange, Inc.

September 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 September 3, 2014, BATS Y-Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is proposing to add Rule 11.23, entitled ''Opening Process,'' as well as to make several corresponding changes in order to modify the manner in which the Exchange opens trading in individual securities at the beginning of the day and after trading halts.

The text of the proposed rule addition is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Exchange Rules 11.9(b) and 11.18(f) and to add new Rule 11.23 in order to allow for the entry of orders with a time-in-force of Regular Hours Only and to amend the process by which the Exchange opens trading at the beginning of the day and after trading halts. Specifically, the Exchange is proposing to accept Regular Hours Only orders for queuing throughout the Pre-Opening Session,[3] as well as to establish a process for handling queued orders in order to open trading on the Exchange for Regular Trading Hours [4] and following a halt. The Exchange is proposing this rule change in order to create a more orderly opening of trading and to facilitate the price formation process at the open of trading by allowing Users to enter orders during the Pre-Market Session and during a halt rather than requiring them to submit a flood of orders to the Exchange immediately following the beginning of Regular Trading Hours or the resumption of trading following a halt.

Currently, the Exchange begins accepting orders for trading at the beginning of the Pre-Opening Session and any such orders received by the Exchange are immediately eligible for execution. Any such orders that are on the BATS Book [5] at the beginning of Regular Trading Hours remain on the BATS Book, subject to the User's instruction, and trading continues into Regular Trading Hours without any transition period. Upon a halt, the Exchange currently cancels all orders on the BATS Book and does not accept any orders until the halt is lifted. The Exchange does not currently have a Regular Hours Only time-in-force.

The Exchange is proposing to implement a process by which the Exchange will accept and queue orders that have a time-in-force of Regular Hours Only (or ''RHO'') during the Pre-Opening Session for execution at the midpoint of the NBBO [6] shortly after the beginning of Regular Trading Hours (the ''Opening Process''). The Exchange is also proposing to implement a similar opening process after a halt, suspension, or pause (a ''Halt'' and the ''Halt Opening Process'') in which a User's orders will remain on the BATS Book, unless the User has designated that its orders be cancelled upon a halt, as further described below.

As mentioned above, the Exchange is proposing to add Rule 11.9(b)(7) which would define the new RHO time-in-force as a limit or market order that is designated for execution only during Regular Trading Hours, which includes the Opening Process, as defined in Rule 11.23. The Exchange is also proposing to make a non-substantive change to Rule 11.9(b) in order to delete the word ''limit'' because an RHO order can be both a limit order or a market order. Each other time-in-force clearly states that it applies only to limit orders.

The Exchange proposes that prior to the beginning of Regular Trading Hours, Users [7] that wish to participate in the Opening Process may enter orders to buy or sell with a time in force of Regular Hours Only. Orders cancelled before the completion of the Opening Process will not participate in the Opening Process. Any order that is not designated as RHO will not be eligible for participation in the Opening Process. Proposed Rule 11.23(a)(2) provides that all orders that are marked as RHO may participate in the Opening Process except BATS Post Only Orders,[8] Partial Post Only at Limit Orders,[9] ISO [10] orders not modified by Rule 11.23(a)(1), as described below, and Minimum Quantity Orders.[11] Because RHO orders received prior to the completion of the Opening Process are not immediately executable, but rather queued for later participation in the Opening Process, BATS Post Only Orders, Partial Post Only at Limit Orders, and Minimum Quantity Orders marked as RHO do not make sense in the context of the Opening Process and, thus, the Exchange is proposing to exclude them from the Opening Process. Similarly, because an order designated as an ISO implies that there is currently a protected bid or offer and there are no protected bids or offers prior to 9:30 a.m. Eastern Time, the Exchange proposes to reject any ISOs designated RHO entered prior to the beginning of Regular Trading Hours. While this functionality is opposite of the way that ISOs are handled on the options platform operated by BATS Exchange, Inc. (''BATS Options'') (ISOs are converted to non-ISOs and entered for queuing), the Exchange believes that because there is continuous trading during the Pre-Opening Session on the Exchange while orders are also being queued for participation in the Opening Process, an ISO tag could be interpreted in various ways and there is no obvious way to eliminate this confusion and, as such, the order should be rejected. On BATS Options, on the other hand, there is no continuous book and all orders entered prior to 9:30 a.m. Eastern Time are queued for participation in the BATS Options opening process, so an ISO tag simply does not make sense in that context and can reasonably be ignored and converted to a non-ISO for queuing. Consistent with this logic and as further detailed below, the Exchange is also proposing that, prior to a re-opening after a halt, any ISO that is not IOC or FOK be converted into a non-ISO for queuing and participation in the re-opening process because there is no continuous trading while a security is halted.

Limit orders with a Reserve Quantity [12] may participate to the full extent of their displayed size and Reserve Quantity. Discretionary Orders [13] may participate only up to their ranked price for buy orders or down to their ranked price for sell orders. The discretionary range of such orders will not be eligible for participation in the Opening Process. All Pegged Orders and Mid-Point Peg Orders, as defined in Rule 11.9(c)(8) and (9), will be eligible for execution in the Opening Process based on their pegged prices.

The Exchange will then attempt to perform the Opening Process, as described in proposed Rule 11.23(b), in which the Exchange matches buy and sell orders that are executable at the midpoint of the NBBO as described in proposed Rule 11.23(c) below. All orders eligible to trade at the midpoint will be processed in time sequence, beginning with the order with the oldest time stamp. The Exchange believes that handling orders in time priority makes more sense than price-time priority for the Opening Process because the price of the order is not particularly important

[3] Pre-Opening Session is defined in BYX Rule 1.5(r).

[4] Regular Trading Hours is defined in BYX Rule 1.5(w).

[5] BATS Book is defined in BYX Rule 1.5(e).

[6] NBBO is defined in BYX Rule 1.5(o).

[7] User is defined in BYX Rule 1.5(cc).

[8] BATS Post Only Order is defined in BYX Rule 11.9(c)(6).

[9] Partial Post Only at Limit Order is defined in BYX Rule 11.9(c)(7).

[10] ISO is defined in BYX Rule 11.9(d).

[11] Minimum Quantity Order is defined in BYX Rule 11.9(c)(5).

[12] Reserve Quantity is defined in BYX Rule 11.9(c)(1).

[13] Discretionary Order is defined in BYX Rule 11.9(c)(10).

to the Opening Process, so long as the order is priced at or more aggressively than the Opening Price and, as such, there is no reason to reward a more aggressive order with priority in the Opening Process. Thus, the Exchange is proposing that all orders that are priced equal to or more aggressively than the Opening Price be matched based only on time priority and will be matched until there is no remaining volume or there is an imbalance of orders (the ''Opening Match''). All MTP modifiers, as defined in Rule 11.9(f), will be ignored as it relates to executions occurring as part of the Opening Match because the counterparty against which an order executes is mostly random and completely out of the control of the User entering the order. It does not make sense to cancel an order because the order happens to execute against an order entered using the same MPID, but to allow both orders to execute at the exact same price to the exact same effect where the orders happen to execute against different orders. An imbalance of orders on the buy side or sell side may result in orders that are not executed in whole or in part. Such orders may, in whole or in part, be placed on the BATS Book, cancelled, executed, or routed to other away Trading Centers [14] in accordance with Rule 11.13(a)(2). If no matches can be made, the Opening Process will conclude with all orders that participated in the Opening Process being placed in the BATS Book, cancelled, executed, or routed to away Trading Centers in accordance with Rule 11.13(a)(2) related to order execution and routing. Because an RHO order is not executable until the Opening Process (rather than upon entry), to the extent that any order is not executed during the Opening Process and is placed on the BATS Book, such order will receive a time stamp that reflects the time that the order was placed on the BATS Book during the Opening Process and not the time that the order was entered for queuing.

Under proposed Rule 11.23(c), the Exchange will determine the price of the Opening Process by using the midpoint of the NBBO, as follows: (a) When the listing exchange is either the NYSE or NYSE MKT, the Opening Process will be priced at the midpoint of the: (i) First NBBO subsequent to the first reported trade on the listing exchange after 9:30:00 a.m. Eastern Time; or (ii) then prevailing NBBO when the first two-sided quotation is published by the listing exchange after 9:30:00 a.m. Eastern Time if no first trade is reported by the listing exchange within one second of publication of the first two-sided quotation by the listing exchange; or (b) for any other listing market, the Opening Process will be priced at the midpoint of the first NBBO disseminated after 9:30:00 a.m. Eastern Time. The Exchange is proposing to differentiate the treatment between NYSE and NYSE MKT listed securities and securities listed on any other exchange because NYSE and NYSE MKT do not offer continuous trading prior to 9:30:00 a.m. Eastern Time and the market for trading in securities listed on these exchanges may take a moment to develop. Using the first NBBO disseminated for NYSE and NYSE MKT listed securities to establish the Opening Price may result in executions that are not necessarily reflective of market conditions after the first execution on the listing market or one second after the listing market's first quote. Every other listing exchange allows for continuous trading prior to 9:30:00 a.m. Eastern Time, which results in a more fully developed market immediately after 9:30:00 a.m. Eastern Time and, thus, a more immediately reliable Opening Price.

Proposed Rule 11.23(a)(1) provides that during the period between 9:30 a.m. Eastern Time and the occurrence of the Opening Process, all non-RHO orders, subject to order instructions, and ISOs designated RHO may execute against eligible Pre-Opening Session contra-side interest resting in the BATS Book. The Exchange will convert any unexecuted portion of an ISO designated RHO entered during this period into a non-ISO and queue the order for participation in the Opening Process.

If the conditions to establish the price of the Opening Process set forth under proposed Rule 11.23(c) do not occur by 9:45:00 a.m. Eastern Time, proposed Rule 11.23(d) describes a contingent opening process (the ''Contingent Open Process'') in which instead of matching orders at the midpoint of the NBBO, orders will be handled in time sequence, beginning with the order with the oldest time stamp, and will be placed on the BATS Book, routed, cancelled, or executed in accordance with the terms of the order. Because an RHO order is not executable until the Opening Process (rather than upon entry), any order subject to the Contingent Open Process that is placed on the BATS Book will receive a time stamp that reflects the time that the order was placed on the BATS Book during the Opening Process and not the time that the order was entered for queuing.

In the event of a Halt, the proposed amendment to Rule 11.18(f) provides that, except where a User has designated that its orders be cancelled, all outstanding orders in the System [15] will remain on the BATS Book. Proposed Rule 11.23(e) then provides that the Exchange will accept orders for queuing prior to the resumption of trading in order to participate in the Halt Opening Process. While a security is subject to a Halt, the Exchange will accept orders for queuing prior to the resumption of trading in the security for participation in the Halt Opening Process. The Halt Opening Process will occur in the same manner described in proposed Rules 11.23(a)(2) and (b) with the following exceptions: (1) Non-RHO orders will be eligible for participation in the re-opening, but IOC,[16] FOK, BATS Post Only Orders, Partial Post Only at Limit Orders, and Minimum Quantity Orders will be cancelled or rejected, as applicable, and any ISO that is not IOC or FOK will be converted into a non-ISO and be queued for participation in the Halt Opening Process; and (2) the re-opening will occur at the midpoint of the: (i) First NBBO subsequent to the first reported trade on the listing exchange following the resumption of trading after a Halt; or (ii) NBBO when the first two-sided quotation is published by the listing exchange following the resumption of trading after a Halt if no first trade is reported by the listing exchange within one second of publication of the first two-sided quotation by the listing exchange. Similar to the rationale for waiting for the sooner of the first execution on the primary or one second to use the midpoint of the NBBO for the Opening Process for NYSE and NYSE MKT, the Exchange is proposing to wait until the sooner of the first execution on the primary or one second to use the midpoint of the NBBO for the Halt Opening Process because there is no continuous trading occurring on any market during a Halt and waiting will provide time for the market to be more fully established before determining the price at which the Halt Opening Process will occur. Where neither of the above conditions required to establish the price of the re-opening have occurred, the security may be opened for trading at the discretion of the Exchange. Where the security is opened by the Exchange subject to this discretion, orders will be handled in the same manner as the Contingent Open Process.

[14] Trading Center is defined in BYX Rule 2.11(a).

[15] System is defined in BYX Rule 1.5(aa).

[16] IOC is defined in BYX Rule 11.9(b)(1).

2. Statutory Basis

The rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[17] Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,[18] because it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that allowing for the entry of RHO orders during the Pre-Opening Session and transitioning into Regular Trading Hours pursuant to the Opening Process will help to ensure that the Exchange opens trading in a fair and orderly manner. Specifically, the Exchange believes that allowing Users to enter and cancel orders during the Pre-Opening Session to be queued for execution at the midpoint of the NBBO and/or entry on to the BATS Book shortly following the beginning of Regular Trading Hours will create a more orderly opening and facilitate the price formation process at the opening of trading because Users are able to enter orders to participate in the Opening Process during the Pre-Market Session rather than having a flood of orders submitted to the Exchange immediately following the beginning of Regular Trading Hours. Similarly, the Exchange believes that implementing substantially similar functionality in non-BATS listed securities for accepting orders during re-opening after a Halt will also create a more orderly opening and facilitate price formation as a security is coming out of a Halt. Additionally, using the midpoint of the NBBO as the price for the Opening Process (regardless of the time at which such NBBO is selected as described under proposed Rule 11.23(c)) will further create a more orderly opening and facilitation of the price formation process by basing the price at which the Opening Process will occur on the best available pricing under current market conditions.

The Exchange also believes that excluding BATS Post Only Orders, Partial Post Only at Limit Orders, ISOs, and Minimum Quantity Orders from participation in the Opening Process is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers because, as described above, such order types combined with an RHO time-in-force do not make sense in the context of queuing orders for the Opening Process. Further, the Exchange believes that allowing certain RHO orders and all non-RHO orders to interact with interest (and, in the case of non-RHO orders, to be added to the BATS Book where there is no contra-side interest) from the Pre-Opening Session after 9:30 a.m. Eastern Time, but before the completion of the Opening Process will also create a more orderly opening and facilitate the price formation process because Users will have the option to enter orders that will either participate in the Opening Process or immediately interact with liquidity from the Pre-Opening Session, allowing trading to continue while the Exchange is waiting for the conditions necessary to complete the Opening Process. The Exchange also believes that allowing an ISO marked RHO to execute against eligible Pre-Opening Session interest after 9:30 a.m. Eastern and before completion of the Opening Process and then converting the unexecuted portion of the order into a non-ISO for queuing for participation in the Opening Process is consistent with the Act because it is consistent with the requirements of Regulation NMS.[19] In particular, because after 9:30 a.m. Eastern Time there may be a protected bid or offer displayed by the Exchange that the User entering the order is trying to execute against, the Exchange is proposing to allow an ISO designated as an RHO to interact with liquidity currently on the BATS Book prior to queuing for participation in the Opening Process.

The Exchange also believes that the proposal is designed 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 because it would create a contingent opening process under which the orders queued for participation in the Opening Process would be entered on to the BATS Book in the event that the conditions for determining the price of the Opening Process are not met prior to 9:45:00 a.m. Eastern Time, which will further help to ensure that the Exchange opens trading in a fair and orderly manner by providing a means for trading in a security to open where there is no two-sided NBBO in the security for fifteen minutes after the beginning of Regular Trading Hours. The Exchange believes that fifteen minutes is a reasonable amount of time to wait for the establishment of a two-sided NBBO because it marks a point at which the market in a security has had a sufficient amount of time to develop while simultaneously providing a reasonable cut-off point at which the Exchange may open the security for Regular Trading Hours trading. The Exchange also believes that handling all orders queued for participation in the Opening Process in time sequence after fifteen minutes will help to ensure that trading opens in as fair and orderly a manner as possible.

The implementation of the Opening Process will also provide Users with greater control and flexibility with respect to entering orders, allowing them to enter orders for participation during Regular Trading Hours during the Pre-Opening Session, rather than only after Regular Trading Hours begin at 9:30 a.m. Eastern Time. This simplifies the order entry process for Users that do not want to participate in the Pre-Opening Session by allowing them to enter their orders designated as Regular Hours Only prior to Regular Trading Hours, which removes impediments to a free and open market and benefits all Users of the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the act. To the contrary, the Exchange's inability to accept orders prior to 9:30 a.m. Eastern Time for participation during Regular Trading Hours limits competition in that the listing exchange is able to begin accepting orders in such securities, while the Exchange cannot accept such orders. Thus, approval of the proposed rule change will promote competition because it will allow the Exchange to offer its Users the ability to enter orders prior to the beginning of Regular Trading Hours for queuing and entry during Regular Trading Hours and thus compete more directly with other exchanges for order flow that a User may not have directed to the Exchange if they were not able to enter orders for queuing prior to Regular Trading Hours.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] 17 CFR 242.600.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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 Exchange 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–BYX–2014–018 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–BYX–2014–018. 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 at 100 F Street NE., Washington, DC 20549–1090 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 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–BYX–2014–018, and should be submitted on or before October 10, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–22327 Filed 9–18–14; 8:45 am]

BILLING CODE 8011–01–P

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73098; File No. SR–EDGA–2014–16]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Establish a New Market Data Product Called the BATS One Feed

September 15, 2014.

On July 14, 2014, EDGA Exchange, Inc. (''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to establish a new market data product called the BATS One Feed. The proposed rule change was published for comment in the **Federal Register** on August 1, 2014.[3] One comment on the proposal has been received.[4]

Section 19(b)(2) of the Act[5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the comments received. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates October 30, 2014, as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File No. SR–EDGA–2014–16).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–22334 Filed 9–18–14; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 72689 (July 28, 2014), 79 FR 44917.

[4] *See* Letter from Suzanne Shatto to Commission (Aug. 19, 2014); *see also* Letter from Sal Arnuk and Joe Saluzzi, Themis Trading LLC, to Elizabeth M. Murphy, Secretary, Commission, dated August 21, 2014 (SR–BATS–2014–028); Letter from Ira D. Hammerman, General Counsel, SIFMA, to Kevin M. O'Neill, Deputy Secretary, Commission, dated August 22, 2014 (SR–BATS–2014–028) (letters commenting on a companion BATS filing that proposes to offer the same feed).

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73100; File No. SR–CBOE–2014–070]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

September 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 September 2, 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 the 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. The Exchange always strives for clarity in its rules and Fees Schedule, so that market participants may best understand how rules and fees apply. As such, the Exchange proposes a number of changes to clarify its Fees Schedule. First, the Exchange proposes to delete all references to ''SPXQ'' in the Fees Schedule. On July 3, 2014, the options symbol for the SPX End-Of-Quarter option series changed from SPXQ to SPXW. The SPXW symbol now includes both End-of-Week and End-of-Quarter PM-settled options series. Accordingly, the symbol ''SPXQ'' is now obsolete and therefore unnecessary to maintain in the Fees Schedule. The Exchange proposes to remove all such references to maintain clarity in the Fees Schedule and avoid potential confusion.

Next, the Exchange proposes to make certain amendments to Footnote 5 of the Fees Schedule. First, the Exchange proposes to reorganize Footnote 5 and separate the contents of the footnote into two separate footnotes. Specifically, Footnote 5 currently addresses both floor brokerage fees and PAR Official fees. The Exchange proposes to address floor brokerage fees and PAR Official fees separately by removing the language in current Footnote 5 relating to PAR Official fees and relocating that language to new Footnote 33. The Exchange believes the proposed change would make the Fees Schedule easier to read and reduce potential confusion. The Exchange notes that the language relating to PAR Official fees that is being relocated to Footnote 33 is the same language currently in Footnote 5, with one exception. Particularly, Footnote 5 currently provides that ''PAR Official Fees are waived for all classes for February 2011 and for all classes except VIX, VXST and Volatility Index Options for March 2011.'' The Exchange proposes to eliminate this sentence and not carry it over to new Footnote 33 as it is no longer applicable. The Exchange believes deletion of outdated language further maintains clarity in the Fees Schedule.

The Exchange also proposes to make a clarifying amendment to Footnote 24 of the Fees Schedule. The first sentence of Footnote 24 provides that the Market-Maker Trading Permit Sliding Scale is available for all Market-Maker Trading Permits held by affiliated Trading Permit Holders (TPHs) and TPH Organizations that are used for appointments in any options classes other than ''SPX, SPXpm, VIX, VXST, OEX and XEO.'' The second sentence of Footnote 24 however, states ''Any Market-Maker Trading Permits used for these four classes, whether in whole or in part, are excluded from this sliding scale and will be priced at $5,000/month [sic].'' The Exchange proposes to delete the word ''four'' from Footnote 24 as it does not correspond with the six classes mentioned in the previous sentence. The Exchange notes that the reference to the number of classes excluded from the sliding scale was inadvertently not updated when fees for both SPXpm and VXST were incorporated into the Fees Schedule. The Exchange believes the removal of the inaccurate reference to the excluded classes avoids potential confusion as to which classes are excluded for purposes of the Market-Maker Trading Permit Sliding Scale.

Next, the Exchange proposes to make certain clarifying changes related to the Floor Broker Trading Permit Sliding Scale (''Sliding Scale'') table. The Exchange recently amended its Fees Schedule to add Footnote 32, which provides ''The Exchange will assess no transaction fees or surcharges for subcabinet trades (limit orders with a price of at least $0 but less than $1 per options contract, per Exchange Rule 6.54, Interpretation and Policy .03). Subcabinet trades will also not count towards any volume thresholds or volume threshold calculations.'' [3] Footnote 32 was appended to all fee-related programs that provide for reduced or limited fees based on achieving certain volume thresholds. The Exchange notes that Footnote 25 (which is appended to the Sliding Scale table), describes a program that provides rebates to Floor Broker Trading Permit Holders for executing certain amounts of customer open outcry contracts in multiply-listed options in a month. As such, Footnote 32 was also appended to the Sliding Scale table to make clear that subcabinet trades would not count towards those volume thresholds. The Exchange notes that although Footnote 25, which is applicable to the Sliding Scale, references a volume based rebate program, the Floor Broker Sliding Scale itself is not based upon volume thresholds but rather number of actual Trading Permits held by a Trading Permit Holder. The Exchange believes that as such, it may be confusing to append a footnote that relates to volume thresholds (as well as unrelated transaction fees for subcabinet trades) to a table referencing a sliding scale that itself is not based upon volume thresholds. The Exchange therefore proposes to eliminate the reference to Footnote 32 from the Sliding Scale table and in its place amend Footnote 25 to explicitly state that subcabinet trades do not count towards the volume thresholds for the rebate program described in Footnote 25. The Exchange notes that no substantive changes are being made by the proposed rule change. The Exchange is proposing this change to merely alleviate potential confusion and make the Fees Schedule easier to read.

Finally, the Exchange proposes to increase the Linkage fee for non-customers orders from $0.55 per contract to $0.65 per contract. The purpose of this proposed change is to cover increased costs associated with routing orders through Linkage and paying the transaction fees for such executions at other exchanges. The Exchange notes that the amount of this fee is lower than corresponding non-

[3] *See* Securities Exchange Act Release No. 71423 (January 28, 2014) 79 FR 6251 (February 3, 2014) (SR–CBOE–2014–008).

customer Linkage fees assessed by other exchanges.[4]

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 the Section 6(b)(5)[6] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation [sic] transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[8] 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.

In particular, the Exchange believes that the proposed clarifications to the Fees Schedule will make the Fees Schedule easier to read and alleviate potential confusion. The alleviation of potential confusion will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

The Exchange's proposal to increase the non-customer Linkage fee from $0.55 to $0.65 is reasonable because such increase will help offset the costs associated with routing orders through Linkage and paying the transaction fees for such executions at other exchanges. Additionally, the amount of the proposed increase is lower than corresponding non-customer Linkage fees assessed by other exchanges.[9] This fee amount will be assessed to all non-customer orders routed via Linkage. The Exchange believes that this proposed change is equitable and not unfairly discriminatory because Non-Customer (e.g., broker-dealer proprietary) orders originate from broker-dealers who are by and large more sophisticated than public customers and can readily control the exchange to which their orders are routed. While there may be some sophisticated customers who are capable of directing the exchange to which their orders are routed, generally, retail customers submit orders to their brokerages but do not or cannot specify the exchange to which a customer order is sent. Therefore, non-customer order flow can, in most cases, more easily route directly to other markets if desired and thus avoid Linkage Fees. Therefore, it is equitable to assess a reasonable fee to cover the costs incurred for processing non-customer Linkage orders while continuing to exempt such customer orders.

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. In particular, the increase to the non-customer Linkage Fee will apply equally to all non-customers. Additionally, although different linkage fees are assessed to different market participants (i.e., non-customers vs customers), as described above, non-customer order flow can, in most cases, more easily route directly to other markets if desired and thus avoid Linkage Fees. Therefore, it is equitable to assess a reasonable fee to cover the costs incurred for processing non-customer Linkage orders while continuing to exempt such customer orders. The Exchange believes that the proposal to increase the linkage fee amount assessed to non-customers will not cause an unnecessary burden on intermarket competition because the fee amount is lower than assessed at other exchanges.[10] To the extent that the proposed changes make CBOE a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become CBOE market participants. Finally, the proposed changes to alleviate confusion are not intended for competitive reasons and only apply to CBOE.

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[11] and paragraph (f) of Rule 19b–4[12] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

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–2014–070 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–2014–070. 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

[4] *See, e.g.,* NASDAQ OMX PHLX LLC (''PHLX'') Pricing, Non-Customer Routing Fee of $0.97 per contract.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] *Id.*

[8] 15 U.S.C. 78f(b)(4).

[9] *See supra* note 2 [sic].

[10] *Id.*

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f).

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 office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2014–070, and should be submitted on or before October 10, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–22336 Filed 9–18–14; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73099; File No. SR–EDGX–2014–19]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Establish a New Market Data Product Called the BATS One Feed

September 15, 2014.

On July 14, 2014, EDGX Exchange, Inc. (''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to establish a new market data product called the BATS One Feed. The proposed rule change was published for comment in the **Federal Register** on August 1, 2014.[3] No comments on the proposal have been received.[4]

Section 19(b)(2) of the Act[5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the comments received on a similar companion proposal. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates October 30, 2014, as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File No. SR–EDGX–2014–19).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–22335 Filed 9–18–14; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 72691 (July 28, 2014), 79 FR 44892.

[4] *But see* Letter from Sal Arnuk and Joe Saluzzi, Themis Trading LLC, to Elizabeth M. Murphy, Secretary, Commission, dated August 21, 2014 (SR–BATS–2014–028); Letter from Ira D. Hammerman, General Counsel, SIFMA, to Kevin M. O'Neill, Deputy Secretary, Commission, dated August 22, 2014 (SR–BATS–2014–028) (letters commenting on a companion BATS filing that proposes to offer the same feed).

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73101; File No. SR–BATS–2014–028]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Establish a New Market Data Product Called the BATS One Feed

September 15, 2014.

On July 14, 2014, BATS Exchange, Inc. (''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to establish a new market data product called the BATS One Feed. The proposed rule change was published for comment in the **Federal Register** on August 1, 2014.[3] Two comments on the proposal have been received.[4]

Section 19(b)(2) of the Act[5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the comments received. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates October 30, 2014, as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File No. SR–BATS–2014–028).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–22337 Filed 9–18–14; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 72688 (July 28, 2014), 79 FR 44941.

[4] *See* Letter from Sal Arnuk and Joe Saluzzi, Themis Trading LLC, to Elizabeth M. Murphy, Secretary, Commission, dated August 21, 2014; Letter from Ira D. Hammerman, General Counsel, SIFMA, to Kevin M. O'Neill, Deputy Secretary, Commission, dated August 22, 2014.

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73102; File No. SR–BYX–2014–011]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Establish a New Market Data Product Called the BATS One Feed

September 15, 2014.

On July 18, 2014, BATS Y-Exchange, Inc. (''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to establish a new market data product called the BATS One Feed. The proposed rule change was published for comment in the **Federal Register** on August 1, 2014.[3] No comments on the proposal have been received.[4]

Section 19(b)(2) of the Act [5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the comments received on a similar companion proposal. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates October 30, 2014, as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File No. SR–BYX–2014–011).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–22338 Filed 9–18–14; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 72690 (July 28, 2014), 79 FR 44929.

[4] *But see* Letter from Sal Arnuk and Joe Saluzzi, Themis Trading LLC, to Elizabeth M. Murphy, Secretary, Commission, dated August 21, 2014 (SR–BATS–2014–028); Letter from Ira D. Hammerman, General Counsel, SIFMA, to Kevin M. O'Neill, Deputy Secretary, Commission, dated August 22, 2014 (SR–BATS–2014–028) (letters commenting on a companion BATS filing that proposes to offer the same feed).

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72993; File No. SR–NASDAQ–2014–091]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to SPY and DIA Options

September 4, 2014.

Correction

In notice document 2014–21527 appearing on pages 53811–53813 in the issue of Wednesday, September 10, 2014, make the following correction:

On page 53813, in the third column, in the 20th line from the bottom, ''October 2, 2014'', should read ''October 1, 2014.''

[FR Doc. C1–2014–21527 Filed 9–18–14; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73095; File No. SR–NYSEMKT–2014–63]

Self-Regulatory Organizations; NYSE MKT LLC; Order Approving Proposed Rule Change Removing Building Access and Other Restrictions on Traders Conducting Certain Futures and Options Trading on ICE Futures U.S., Inc. in Space Rented From the Exchange

September 15, 2014.

On July 15, 2014, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] filed with the Securities and Exchange Commission (the ''Commission'') a proposed rule change to removing building access and other restrictions on traders conducting certain futures and options trading on ICE Futures U.S., Inc. The proposed rule change was published for public comment in the **Federal Register** on August 1, 2014.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

I. Background and Introduction

The Exchange proposes to remove building access and other restrictions on traders conducting certain futures and options trading on ICE Futures U.S., Inc. (''IFUS'') [4] in space rented from the Exchange (the ''IFUS Trading Floor'').

1. Background

On February 13, 2013, the Exchange filed a proposed rule change to relocate trading of certain futures and options contracts conducted on IFUS from rented space at the New York Mercantile Exchange (''NYMEX'') to trading space at 20 Broad Street, New York, New York, commonly known as the ''Blue Room'', and to amend NYSE MKT Rule 6A—Equities, which defines the terms ''Trading Floor'' and ''NYSE Amex Options Trading Floor'' (the ''Original Filing'').[5] The Original Filing stated that the IFUS Traders relocating to 20 Broad Street and their clerical employees [6] would only utilize the 18 Broad Street entrance to access the Blue Room [7] and, once inside, be prohibited from entering the Main Room, where most of the NYSE MKT and New York Stock Exchange LLC (''NYSE'') Equities Floor brokers and all NYSE MKT and NYSE Designated Market Makers (''DMMs'') are located, as well as the NYSE Amex Options trading floor. In addition, the Original Filing represented that the IFUS Traders would sit together in dedicated booth space approximately

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 72680 (July 28, 2014), 79 FR 44953.

[4] IFUS is a Designated Contract Market pursuant to the Commodity Exchange Act, as amended, and is regulated by the U.S. Commodity Futures Trading Commission (''CFTC'').

[5] *See* Securities Exchange Act Release Nos. 68997 (February 27, 2013), 78 FR 17982 (March 5, 2013) (SR–NYSEMKT–2013–13).

[6] Currently, there are 24 IFUS Traders and 13 clerical staff on the IFUS Trading Floor. At the time of the Original Filing, there were 40 IFUS Traders.

[7] Specifically, the IFUS Traders must use the 18 Broad Street entrance elevator and enter the Trading Floor using the turnstile nearest the Blue Room. The Exchange has been monitoring badge swipes at other locations to identify instances where the IFUS Traders utilize a different entrance and referring those findings to IFUS Compliance for appropriate action. Last year, there were approximately 22 instances in which individual IFUS Traders or their clerical staff used an entrance or turnstile other than 18 Broad entrance and turnstiles authorized for their use. However, IFUS Compliance found that all of these were inadvertent use of either of a wrong turnstile for the 18 Broad St. entrance, another entrance necessitated for use when gaining visitor access or when the 18 Broad St. entrance was temporarily inaccessible, or to access a bathroom, and therefore, chose not to take any disciplinary action.

40 feet long by 10 feet wide with privacy barriers consisting of eight foot walls on both sides except for the two gated and badge access entry and exit security doors at the front and back of the booth, which are four feet high. A compliance officer from IFUS Market Regulation is also present in the Blue Room performing on-site surveillance on a regular basis.

On June 3, 2013, the Exchange filed a proposed rule change to clarify that the IFUS Traders may, on an as needed basis and only prior to 7 a.m., access the Blue Room via the Exchange's 11 Wall Street facilities, which would entail walking through the Main Room to access the Blue Room, and that the IFUS Traders may access the Blue Room via the Exchange's 11 Wall Street facilities on days that the Exchange is closed (the ''Supplemental Filing'').[8]

2. Proposed Rule Change

The Exchange is proposing to: (i) Eliminate the building access restrictions, which would allow the IFUS Traders to enter the Exchange's facilities from either the 11 Wall Street or 18 Broad Street entrances; (ii) eliminate the restriction on the IFUS Traders entering or crossing the Main Room in order to access the IFUS Trading Floor; and (iii) remove the gated and badge access entry and exit security doors at the front and back of the IFUS Traders' booth (the ''Proposal'').

The Exchange states that it does not believe that removing the restrictions on the IFUS Traders would provide the IFUS Traders with an unfair competitive advantage over other market participants. The Exchange states that it believes removing certain restrictions on the IFUS Traders entering or crossing the Main Room is appropriate, in part, because IFUS is purely an electronic trading market. Although there is a physical IFUS Trading Floor, the Exchange notes that there is no open outcry trading. IFUS Traders may accept customer orders for IFUS contracts by telephone or electronically and enter such orders electronically to the IFUS trading platform. However, IFUS Traders are prohibited by IFUS rules from orally discussing orders or transactions with each other while on the IFUS Trading Floor and communications between IFUS Traders on the IFUS Trading Floor must be made via instant message, email, or recorded telephone line. In addition, order tickets are prepared and time-stamped for each customer order. IFUS Traders may also enter orders electronically for their own proprietary account. There are 24 IFUS Traders,[9] and four of the 24 IFUS Traders engage in proprietary-only trading, while the rest enter customer orders for execution and engage in proprietary trading on IFUS. IFUS lists and trades futures and options on futures on cotton, frozen concentrated orange juice, coffee, sugar, cocoa, energy, foreign currencies, and certain Russell Indices[10] (the ''IFUS Contracts''), but effects transactions primarily on options on cotton futures.[11]

The Exchange also notes that IFUS traders do not have wireless hand-held devices and can only conduct trading in IFUS products via terminals located on the IFUS Trading Floor. In addition, none of the IFUS Traders are registered to trade any of the securities traded on the Exchange, nor have the capability to enter orders in Exchange-traded securities from the IFUS Trading Floor via the IFUS electronic trading system.

The Exchange represents that there is a limited nexus between products that trade on IFUS and those that trade on the Exchange and that the only IFUS Contracts related to Exchange-traded products are futures and options on futures on certain Russell indexes, all of which are broad-based indexes as defined in Section 3(a)(55)(C)(vi) of the Securities Exchange Act of 1934 and that market participants ability to manipulate these are limited.[12] The Exchange further notes that pricing information about the products traded on the IFUS Trading Floor is contemporaneously and publicly available on Bloomberg and other quotation reporting systems. Thus, to the extent there is any correlation between the price movements of the products traded on the IFUS Trading Floor and Exchange-listed companies with exposure to those commodity-based products, the Exchange believes IFUS Traders are not in possession of any non-public information regarding pricing of such products that could be used improperly by the IFUS Traders or Exchange members. The Exchange represents that IFUS Traders represent only a small proportion of IFUS's total trading volume.[13]

The Exchange represents that Financial Industry Regulatory Authority, Inc. (''FINRA'') is provided with the names of the IFUS Traders to assist in identifying any potentially violative trading[14] and that, to date, FINRA has not identified any regulatory or other concerns about the IFUS Traders, identified suspicious activity or behavior, or identified instances where confidential order information was compromised or inappropriately used. The Exchange further represents that the following important safeguards will remain in place: (i) IFUS Traders sitting together in segregated booth space with privacy barriers to reduce the likelihood that trading screens can be viewed or conversations overheard between firms and traders; (ii) IFUS Market Regulation compliance officer performing on-site surveillance on a regular basis; and (iii) Exchange's equities and options on-Floor surveillance staff being located near the IFUS Trading Floor. Finally, the Exchange represents that its members and member organizations have been notified of their responsibly to protect the confidentiality of nonpublic order and trade information, and to not engage in any trading, order or market related communications with the IFUS Traders or their clerical staff.[15]

III. Commission Findings

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[16] The Commission believes that the proposal

[8] Certain of the IFUS Traders conduct business on foreign markets on Exchange holidays. *See* Securities Exchange Act Release No. 69764 (June 13, 2013), 78 FR 37259 (June 20, 2013) (SR–NYSEMKT–2013–49).

[9] There were 40 IFUS Traders last year and no IFUS Traders are members of the Exchange, NYSE or Amex Options.

[10] These include the Russell 2000, Russell 1000, and Russell Value and Growth, all of which qualify as broad-based indices. The Exchange states, however, that the IFUS Traders trade only a small volume of the Russell products and, of that small volume, most is in the Russell 2000 mini-contracts.

[11] *See* Securities Exchange Act Release No. 68997 (February 27, 2013), 78 FR 14378 (March 5, 2013) (SR–NYSEMKT–2013–13).

[12] 15 U.S.C. 78c(a)(55)(A). IFUS product offerings have historically been benchmark futures and options contracts relating to agricultural products, currencies, and broad-based market indexes. There are no plans to offer single stock futures on IFUS.

[13] As noted in the Original Filing, approximately 83% of IFUS's total daily contract volume is in IFUS energy contracts. The IFUS Traders transact less than 5% of the 17% of IFUS's average daily volume that is not related to energy contracts and a fraction of 1% of the total average daily IFUS volume (which includes the energy contracts transacted on IFUS).

[14] Providing the names of the IFUS Traders to FINRA was for the purpose of regulatory information sharing. Neither the Exchange nor FINRA will be responsible for regulating or surveilling the IFUS Traders' activity, and the IFUS Traders are not subject to the Exchange's jurisdiction. Rather, the IFUS Traders will continue to be regulated by IFUS.

[15] *See* Member Education Bulletin 2013–5 (March 20, 2013), available at *http://www.nyse.com/nysenotices/nyse/education-bulletins/pdf.action?memo_id=2013-5.*

[16] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

is consistent with Section 6(b)(5) [17] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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.

According to the Exchange, safeguards will remain in place to protect against IFUS Traders gaining an unfair competitive advantage over other market participants. The Exchange emphasizes that IFUS traders do not have wireless hand-held devices, are restricted to trading IFUS products at terminals located in the IFUS Trading Floor, and that IFUS Market Regulation compliance officers perform on-site surveillance on a regular basis. In addition, no IFUS Traders are registered to trade any Exchange securities, and they do not have the ability to enter orders in Exchange-traded securities from the IFUS Trading Floor via the IFUS electronic trading system. The Exchange also notes that there is a limited pricing nexus between products traded on IFUS, and that pricing information about the products traded on the IFUS Trading Floor is contemporaneously and publicly available on Bloomberg and other quotation reporting systems. Finally, the Exchange notes that equities and options on-Floor surveillance staff will continue to be located near the IFUS Trading Floor and FINRA has been provided with the names of the IFUS Traders to assist in identifying any potentially violative trading involving the IFUS Traders.

Based on the foregoing, the Commission believes the proposed rule change to eliminate the restrictions on the manner in which the IFUS Traders enter the Exchange's facilities and the prohibition on IFUS Traders from entering or crossing the Main Room on the way to the IFUS Trading Floor is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NYSEMKT–2014–63), is hereby approved.

[17] 15 U.S.C. 78f(b)(5).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–22332 Filed 9–18–14; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73093; File No. SR–BATS–2014–037]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of a Proposed Rule Change to Rules 11.9 and 21.1 of BATS Exchange, Inc.

September 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 September 3, 2014, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is proposing to add Rule 11.24, entitled ''Opening Process for Non-BATS-Listed Securities,'' as well as to make several corresponding changes in order to modify the manner in which the Exchange opens trading for non-BATS-listed securities at the beginning of the day and after trading halts.

The text of the proposed rule addition is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Exchange Rules 11.9(b), 11.18(f), and 11.23(a)(22), and to add new Rule 11.24 in order to allow for the entry of Regular Hours Only orders in non-BATS-listed securities and to amend the process by which the Exchange opens trading for non-BATS-listed securities at the beginning of the day and after trading halts. Specifically, the Exchange is proposing to accept Regular Hours Only orders in all non-BATS-listed securities for queuing throughout the Pre-Opening Session,[3] as well as to establish a process for handling queued orders in order to open trading on the Exchange for Regular Trading Hours [4] and following a halt. The Exchange is proposing this rule change in order to create a more orderly opening of trading in non-BATS-listed securities and to facilitate the price formation process at the open of trading in non-BATS-listed securities by allowing Users to enter orders during the Pre-Market Session and during a halt rather than requiring them to submit a flood of orders to the Exchange immediately following the beginning of Regular Trading Hours or the resumption of trading following a halt.

Currently, the Exchange begins accepting orders in non-BATS-listed securities for trading at the beginning of the Pre-Opening Session and any such orders received by the Exchange are immediately eligible for execution. Any such orders that are on the BATS Book [5] at the beginning of Regular Trading Hours remain on the BATS Book, subject to the User's instruction, and trading continues into Regular Trading Hours without any transition period. Upon a halt, the Exchange currently cancels all orders on the BATS Book, except Eligible Auction Orders,[6] and does not accept any orders until the halt is lifted. The time-in-force of Regular

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Pre-Opening Session is defined in BATS Rule 1.5(r).

[4] Regular Trading Hours is defined in BATS Rule 1.5(w).

[5] BATS Book is defined in BATS Rule 1.5(e).

[6] Eligible Auction Order is defined in BATS Rule 11.23(a)(8).

Hours Only[7] that the Exchange currently offers is only available in BATS-listed securities.

The Exchange is proposing to implement a process by which the Exchange will accept and queue orders that have a time-in-force of Regular Hours Only (or ''RHO'')[8] during the Pre-Opening Session for execution at the midpoint of the NBBO[9] shortly after the beginning of Regular Trading Hours (the ''Opening Process''). The Exchange is also proposing to implement a similar opening process after a halt, suspension, or pause (a ''Halt'' and the ''Halt Opening Process'') in which a User's orders will remain on the BATS Book, unless the User has designated that its orders be cancelled upon a halt, as further described below.

As mentioned above, the Exchange is proposing to delete current rule 11.23(a)(22) defining Regular Hours Only and simultaneously adding Rule 11.9(b)(7) which would define RHO as a time-in-force that applies to all securities, both BATS-listed and non-BATS-listed. Specifically, the Exchange is proposing that RHO means a limit or market order that is designated for execution only during Regular Trading Hours, which includes the Opening Auction, the Closing Auction, and IPO/Halt Auctions for BATS-listed securities and the Opening Process for non-BATS-listed securities (as such terms are defined in Rule 11.23 and 11.24). Any portion of a market RHO order will be cancelled immediately following any auction in which it is not executed. The Exchange is also proposing to make a non-substantive change to Rule 11.9(b) in order to delete the word ''limit'' because an RHO order can be both a limit order or a market order. Each other time-in-force clearly states that it applies only to limit orders.

The Exchange proposes that prior to the beginning of Regular Trading Hours, Users[10] that wish to participate in the Opening Process may enter orders to buy or sell with a time in force of Regular Hours Only. Orders cancelled before the completion of the Opening Process will not participate in the Opening Process. Any order that is not designated as RHO will not be eligible for participation in the Opening Process. Proposed Rule 11.24(a)(2) provides that all orders that are marked as RHO may participate in the Opening Process except BATS Post Only Orders,[11] Partial Post Only at Limit Orders,[12] ISO[13] orders not modified by Rule 11.24(a)(1), as described below, and Minimum Quantity Orders.[14] Because RHO orders received prior to the completion of the Opening Process are not immediately executable, but rather queued for later participation in the Opening Process, BATS Post Only Orders, Partial Post Only at Limit Orders, and Minimum Quantity Orders marked as RHO do not make sense in the context of the Opening Process and, thus, the Exchange is proposing to exclude them from the Opening Process. Similarly, because an order designated as an ISO implies that there is currently a protected bid or offer and there are no protected bids or offers prior to 9:30 a.m. Eastern Time, the Exchange proposes to reject any ISOs designated RHO entered prior to the beginning of Regular Trading Hours. While this functionality is opposite of the way that ISOs are handled on the Exchange's options platform (''BATS Options'') (ISOs are converted to non-ISOs and entered for queuing), the Exchange believes that because there is continuous trading during the Pre-Opening Session on the Exchange while orders are also being queued for participation in the Opening Process, an ISO tag could be interpreted in various ways and there is no obvious way to eliminate this confusion and, as such, the order should be rejected. On BATS Options, on the other hand, there is no continuous book and all orders entered prior to 9:30 a.m. Eastern Time are queued for participation in the BATS Options opening process, so an ISO tag simply does not make sense in that context and can reasonably be ignored and converted to a non-ISO for queuing. Consistent with this logic and as further detailed below, the Exchange is also proposing that, prior to a re-opening after a halt, any ISO that is not IOC or FOK be converted into a non-ISO for queuing and participation in the re-opening process because there is no continuous trading while a security is halted.

Limit orders with a Reserve Quantity[15] may participate to the full extent of their displayed size and Reserve Quantity. Discretionary Orders[16] may participate only up to their ranked price for buy orders or down to their ranked price for sell orders. The discretionary range of such orders will not be eligible for participation in the Opening Process. All Pegged Orders and Mid-Point Peg Orders, as defined in Rule 11.9(c)(8) and (9), will be eligible for execution in the Opening Process based on their pegged prices.

The Exchange will then attempt to perform the Opening Process, as described in proposed Rule 11.24(b), in which the Exchange matches buy and sell orders that are executable at the midpoint of the NBBO as described in proposed Rule 11.24(c) below. All orders eligible to trade at the midpoint will be processed in time sequence, beginning with the order with the oldest time stamp. The Exchange believes that handling orders in time priority makes more sense than price-time priority for the Opening Process because the price of the order is not particularly important to the Opening Process, so long as the order is priced at or more aggressively than the Opening Price and, as such, there is no reason to reward a more aggressive order with priority in the Opening Process. Thus, the Exchange is proposing that all orders that are priced equal to or more aggressively than the Opening Price be matched based only on time priority and will be matched until there is no remaining volume or there is an imbalance of orders (the ''Opening Match''). All MTP modifiers, as defined in Rule 11.9(f), will be ignored as it relates to executions occurring as part of the Opening Match because the counterparty against which an order executes is mostly random and completely out of the control of the User entering the order. It does not make sense to cancel an order because the order happens to execute against an order entered using the same MPID, but to allow both orders to execute at the exact same price to the exact same effect where the orders happen to execute against different orders. An imbalance of orders on the buy side or sell side may result in orders that are not executed in whole or in part. Such orders may, in whole or in part, be placed on the BATS Book, cancelled, executed, or routed to other away Trading Centers[17] in accordance with Rule 11.13(a)(2). If no matches can be made, the Opening Process will conclude with all orders that participated in the Opening Process being placed in the BATS Book,

[7] Regular Hours Only is defined in BATS Rule 11.23(a)(22).

[8] The Exchange is proposing to amend the definition of Regular Hours Only to include non-BATS-listed securities and to move the rule text from Rule 11.23(a)(22) to Proposed Rule 11.9(b)(7).

[9] NBBO is defined in BATS Rule 1.5(o).

[10] User is defined in BATS Rule 1.5(cc).

[11] BATS Post Only Order is defined in BATS Rule 11.9(c)(6).

[12] Partial Post Only at Limit Order is defined in BATS Rule 11.9(c)(7).

[13] ISO is defined in BATS Rule 11.9(d).

[14] Minimum Quantity Order is defined in BATS Rule 11.9(c)(5).

[15] Reserve Quantity is defined in BATS Rule 11.9(c)(1).

[16] Discretionary Order is defined in BATS Rule 11.9(c)(10).

[17] Trading Center is defined in BATS Rule 2.11(a).

cancelled, executed, or routed to away Trading Centers in accordance with Rule 11.13(a)(2) related to order execution and routing. Because an RHO order is not executable until the Opening Process (rather than upon entry), to the extent that any order is not executed during the Opening Process and is placed on the BATS Book, such order will receive a time stamp that reflects the time that the order was placed on the BATS Book during the Opening Process and not the time that the order was entered for queuing.

Under proposed Rule 11.24(c), the Exchange will determine the price of the Opening Process by using the midpoint of the NBBO, as follows: (a) When the listing exchange is either the NYSE or NYSE MKT, the Opening Process will be priced at the midpoint of the: (i) First NBBO subsequent to the first reported trade on the listing exchange after 9:30:00 a.m. Eastern Time; or (ii) then prevailing NBBO when the first two-sided quotation is published by the listing exchange after 9:30:00 a.m. Eastern Time if no first trade is reported by the listing exchange within one second of publication of the first two-sided quotation by the listing exchange; or (b) for any other listing market except for the Exchange, the Opening Process will be priced at the midpoint of the first NBBO disseminated after 9:30:00 a.m. Eastern Time. The Exchange is proposing to differentiate the treatment between NYSE and NYSE MKT listed securities and securities listed on any other exchange because NYSE and NYSE MKT do not offer continuous trading prior to 9:30:00 a.m. Eastern Time and the market for trading in securities listed on these exchanges may take a moment to develop. Using the first NBBO disseminated for NYSE and NYSE MKT listed securities to establish the Opening Price may result in executions that are not necessarily reflective of market conditions after the first execution on the listing market or one second after the listing market's first quote. Every other listing exchange allows for continuous trading prior to 9:30:00 a.m. Eastern Time, which results in a more fully developed market immediately after 9:30:00 a.m. Eastern Time and, thus, a more immediately reliable Opening Price.

Proposed Rule 11.24(a)(1) provides that during the period between 9:30 a.m. Eastern Time and the occurrence of the Opening Process, all non-RHO orders, subject to order instructions, and ISOs designated RHO may execute against eligible Pre-Opening Session contra-side interest resting in the BATS Book. The Exchange will convert any unexecuted portion of an ISO designated RHO entered during this period into a non-ISO and queue the order for participation in the Opening Process.

If the conditions to establish the price of the Opening Process set forth under proposed Rule 11.24(c) do not occur by 9:45:00 a.m. Eastern Time, proposed Rule 11.24(d) describes a contingent opening process (the ''Contingent Open Process'') in which instead of matching orders at the midpoint of the NBBO, orders will be handled in time sequence, beginning with the order with the oldest time stamp, and will be placed on the BATS Book, routed, cancelled, or executed in accordance with the terms of the order. Because an RHO order is not executable until the Opening Process (rather than upon entry), any order subject to the Contingent Open Process that is placed on the BATS Book will receive a time stamp that reflects the time that the order was placed on the BATS Book during the Opening Process and not the time that the order was entered for queuing.

In the event of a Halt, the proposed amendment to Rule 11.18(f) provides that, except where a User has designated that its orders be cancelled, all outstanding orders in the System [18] will remain on the BATS Book. Proposed Rule 11.24(e) then provides that the Exchange will accept orders for queuing prior to the resumption of trading in order to participate in the Halt Opening Process. While a non-BATS-listed security is subject to a Halt, the Exchange will accept orders for queuing prior to the resumption of trading in the security for participation in the Halt Opening Process. The Halt Opening Process will occur in the same manner described in proposed Rules 11.24(a)(2) and (b) with the following exceptions: (1) Non-RHO orders will be eligible for participation in the re-opening, but IOC,[19] FOK, BATS Post Only Orders, Partial Post Only at Limit Orders, and Minimum Quantity Orders will be cancelled or rejected, as applicable, and any ISO that is not IOC or FOK will be converted into a non-ISO and be queued for participation in the Halt Opening Process; and (2) the re-opening will occur at the midpoint of the: (i) First NBBO subsequent to the first reported trade on the listing exchange following the resumption of trading after a Halt; or (ii) NBBO when the first two-sided quotation is published by the listing exchange following the resumption of trading after a Halt if no first trade is reported by the listing exchange within one second of publication of the first two-sided quotation by the listing exchange. Similar to the rationale for waiting for the sooner of the first execution on the primary or one second to use the midpoint of the NBBO for the Opening Process for NYSE and NYSE MKT, the Exchange is proposing to wait until the sooner of the first execution on the primary or one second to use the midpoint of the NBBO for the Halt Opening Process because there is no continuous trading occurring on any market during a Halt and waiting will provide time for the market to be more fully established before determining the price at which the Halt Opening Process will occur. Where neither of the above conditions required to establish the price of the re-opening have occurred, the security may be opened for trading at the discretion of the Exchange. Where the security is opened by the Exchange subject to this discretion, orders will be handled in the same manner as the Contingent Open Process.

2. Statutory Basis

The rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[20] Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,[21] because it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that allowing for the entry of RHO orders in non-BATS-listed securities during the Pre-Opening Session and transitioning into Regular Trading Hours pursuant to the Opening Process will help to ensure that the Exchange opens trading in a fair and orderly manner. Specifically, the Exchange believes that allowing Users to enter and cancel orders in non-BATS-listed securities during the Pre-Opening Session to be queued for execution at the midpoint of the NBBO and/or entry on to the BATS Book shortly following the beginning of Regular Trading Hours will create a more orderly opening and facilitate the price formation process at the opening of trading because Users are able to enter orders to participate in the Opening Process during the Pre-Market Session rather than having a flood of orders submitted to the Exchange immediately following the beginning of

[18] System is defined in BATS Rule 1.5(aa).

[19] IOC is defined in BATS Rule 11.9(b)(1).

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(5).

Regular Trading Hours. Similarly, the Exchange believes that implementing substantially similar functionality in non-BATS listed securities for accepting orders during re-opening after a Halt will also create a more orderly opening and facilitate price formation as a security is coming out of a Halt. Additionally, using the midpoint of the NBBO as the price for the Opening Process (regardless of the time at which such NBBO is selected as described under proposed Rule 11.24(c)) will further create a more orderly opening and facilitation of the price formation process by basing the price at which the Opening Process will occur on the best available pricing under current market conditions.

The Exchange also believes that excluding BATS Post Only Orders, Partial Post Only at Limit Orders, ISOs, and Minimum Quantity Orders from participation in the Opening Process is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers because, as described above, such order types combined with an RHO time-in-force do not make sense in the context of queuing orders for the Opening Process. Further, the Exchange believes that allowing certain RHO orders and all non-RHO orders to interact with interest (and, in the case of non-RHO orders, to be added to the BATS Book where there is no contra-side interest) from the Pre-Opening Session after 9:30 a.m. Eastern Time, but before the completion of the Opening Process will also create a more orderly opening and facilitate the price formation process because Users will have the option to enter orders that will either participate in the Opening Process or immediately interact with liquidity from the Pre-Opening Session, allowing trading to continue while the Exchange is waiting for the conditions necessary to complete the Opening Process. The Exchange also believes that allowing an ISO marked RHO to execute against eligible Pre-Opening Session interest after 9:30 a.m. Eastern and before completion of the Opening Process and then converting the unexecuted portion of the order into a non-ISO for queuing for participation in the Opening Process is consistent with the Act because it is consistent with the requirements of Regulation NMS.[22] In particular, because after 9:30 a.m. Eastern Time there may be a protected bid or offer displayed by the Exchange that the User entering the order is trying to execute against, the Exchange is proposing to allow an ISO designated as an RHO to interact with liquidity currently on the BATS Book prior to queuing for participation in the Opening Process.

The Exchange also believes that the proposal is designed 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 because it would create a contingent opening process under which the orders queued for participation in the Opening Process would be entered on to the BATS Book in the event that the conditions for determining the price of the Opening Process are not met prior to 9:45:00 a.m. Eastern Time, which will further help to ensure that the Exchange opens trading in a fair and orderly manner by providing a means for trading in a non-BATS-listed security to open where there is no two-sided NBBO in the security for fifteen minutes after the beginning of Regular Trading Hours. The Exchange believes that fifteen minutes is a reasonable amount of time to wait for the establishment of a two-sided NBBO because it marks a point at which the market in a security has had a sufficient amount of time to develop while simultaneously providing a reasonable cut-off point at which the Exchange may open the security for Regular Trading Hours trading. The Exchange also believes that handling all orders queued for participation in the Opening Process in time sequence after fifteen minutes will help to ensure that trading opens in as fair and orderly a manner as possible.

The implementation of the Opening Process will also provide Users with greater control and flexibility with respect to entering orders, allowing them to enter orders for participation during Regular Trading Hours in all non-BATS-listed securities during the Pre-Opening Session, rather than only after Regular Trading Hours begin at 9:30 a.m. Eastern Time. This simplifies the order entry process for Users that do not want to participate in the Pre-Opening Session by allowing them to enter their orders designated as Regular Hours Only prior to Regular Trading Hours, which removes impediments to a free and open market and benefits all Users of the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the act. To the contrary, the Exchange's inability to accept orders in non-BATS-listed securities prior to 9:30 a.m. Eastern Time for participation during Regular Trading Hours limits competition in that the listing exchange is able to begin accepting orders in such securities, while the Exchange cannot accept such orders. Thus, approval of the proposed rule change will promote competition because it will allow the Exchange to offer its Users the ability to enter orders prior to the beginning of Regular Trading Hours for queuing and entry during Regular Trading Hours and thus compete more directly with other exchanges for order flow that a User may not have directed to the Exchange if they were not able to enter orders for queuing prior to Regular Trading Hours.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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 Exchange 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

[22] 17 CFR 242.600.

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–BATS–2014–037 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–BATS–2014–037. 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 at 100 F Street NE., Washington, DC 20549–1090 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 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–BATS–2014–037, and should be submitted on or before October 10, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–22326 Filed 9–18–14; 8:45 am]

BILLING CODE 8011–01–P

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73096; File No. SR–NYSE–2014–39]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving Proposed Rule Change Removing Building Access and Other Restrictions on Traders Conducting Certain Futures and Options Trading on ICE Futures U.S., Inc. in Space Rented From the Exchange

September 15, 2014.

On July 15, 2014, New York Stock Exchange LLC (''NYSE'' or the ''Exchange''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] filed with the Securities and Exchange Commission (the ''Commission'') a proposed rule change to removing building access and other restrictions on traders conducting certain futures and options trading on ICE Futures U.S., Inc. The proposed rule change was published for public comment in the **Federal Register** on August 1, 2014.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

I. Background and Introduction

The Exchange proposes to remove building access and other restrictions on traders conducting certain futures and options trading on ICE Futures U.S., Inc. (''IFUS'')[4] in space rented from the Exchange (the ''IFUS Trading Floor'').

1. Background

On February 13, 2013, the Exchange filed a proposed rule change to relocate trading of certain futures and options contracts conducted on IFUS from rented space at the New York Mercantile Exchange (''NYMEX'') to trading space at 20 Broad Street, New York, New York, commonly known as the ''Blue Room'', and to amend NYSE Rule 6A, which defines the terms ''Trading Floor'' and ''NYSE Amex Options Trading Floor'' (the ''Original Filing'').[5] The Original Filing stated that the IFUS Traders relocating to 20 Broad Street and their clerical employees[6] would only utilize the 18 Broad Street entrance to access the Blue Room[7] and, once inside, be prohibited from entering the Main Room, where most of the NYSE and NYSE MKT LLC (''NYSE MKT'') Equities Floor brokers and all NYSE and NYSE MKT Equities Designated Market Makers (''DMMs'') are located, as well as the NYSE Amex Options trading floor. In addition, the Original Filing represented that the IFUS Traders would sit together in dedicated booth space approximately 40 feet long by 10 feet wide with privacy barriers consisting of eight foot walls on both sides except for the two gated and badge access entry and exit security doors at the front and back of the booth, which are four feet high. A compliance officer from IFUS Market Regulation is also present in the Blue Room performing on-site surveillance on a regular basis.

On June 3, 2013, the Exchange filed a proposed rule change to clarify that the IFUS Traders may, on an as needed basis and only prior to 7 a.m., access the Blue Room via the Exchange's 11 Wall Street facilities, which would entail walking through the Main Room to access the Blue Room, and that the IFUS Traders may access the Blue Room via the Exchange's 11 Wall Street facilities on days that the Exchange is closed (the ''Supplemental Filing'').[8]

2. Proposed Rule Change

The Exchange is proposing to: (i) Eliminate the building access restrictions, which would allow the IFUS Traders to enter the Exchange's facilities from either the 11 Wall Street or 18 Broad Street entrances; (ii) eliminate the restriction on the IFUS Traders entering or crossing the Main

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 72681 (July 28, 2014), 70 FR 44906.

[4] IFUS is a Designated Contract Market pursuant to the Commodity Exchange Act, as amended, and is regulated by the U.S. Commodity Futures Trading Commission (''CFTC'').

[5] *See* Securities Exchange Act Release Nos. 68996 (February 27, 2013), 78 FR 14378 (March 5, 2013) (SR–NYSE–2013–13).

[6] Currently, there are 24 IFUS Traders and 13 clerical staff on the IFUS Trading Floor. At the time of the Original Filing, there were 40 IFUS Traders.

[7] Specifically, the IFUS Traders must use the 18 Broad Street entrance elevator and enter the Trading Floor using the turnstile nearest the Blue Room. The Exchange has been monitoring badge swipes at other locations to identify instances where the IFUS Traders utilize a different entrance and referring those findings to IFUS Compliance for appropriate action. Last year, there were approximately 22 instances in which individual IFUS Traders or their clerical staff used an entrance or turnstile other than 18 Broad entrance and turnstiles authorized for their use. However, IFUS Compliance found that all of these were inadvertent use of either of a wrong turnstile for the 18 Broad St. entrance, another entrance necessitated for use when gaining visitor access or when the 18 Broad St. entrance was temporarily inaccessible, or to access a bathroom, and therefore, chose not to take any disciplinary action.

[8] Certain of the IFUS Traders conduct business on foreign markets on Exchange holidays. *See* Securities Exchange Act Release Nos. 69763 (June 13, 2013), 78 FR 37265 (June 20, 2013) (SR–NYSE–2013–38).

Room in order to access the IFUS Trading Floor; and (iii) remove the gated and badge access entry and exit security doors at the front and back of the IFUS Traders' booth (the ''Proposal'').

The Exchange states that it does not believe that removing the restrictions on the IFUS Traders would provide the IFUS Traders with an unfair competitive advantage over other market participants. The Exchange states that it believes removing certain restrictions on the IFUS Traders entering or crossing the Main Room is appropriate, in part, because IFUS is purely an electronic trading market. Although there is a physical IFUS Trading Floor, the Exchange notes that there is no open outcry trading. IFUS Traders may accept customer orders for IFUS contracts by telephone or electronically and enter such orders electronically to the IFUS trading platform. However, IFUS Traders are prohibited by IFUS rules from orally discussing orders or transactions with each other while on the IFUS Trading Floor and communications between IFUS Traders on the IFUS Trading Floor must be made via instant message, email, or recorded telephone line. In addition, order tickets are prepared and time-stamped for each customer order. IFUS Traders may also enter orders electronically for their own proprietary account. There are 24 IFUS Traders,[9] and four of the 24 IFUS Traders engage in proprietary-only trading, while the rest enter customer orders for execution and engage in proprietary trading on IFUS. IFUS lists and trades futures and options on futures on cotton, frozen concentrated orange juice, coffee, sugar, cocoa, energy, foreign currencies, and certain Russell Indices [10] (the ''IFUS Contracts''), but effects transactions primarily on options on cotton futures.[11]

The Exchange also notes that IFUS traders do not have wireless hand-held devices and can only conduct trading in IFUS products via terminals located on the IFUS Trading Floor. In addition, none of the IFUS Traders are registered to trade any of the securities traded on the Exchange, nor have the capability to enter orders in Exchange-traded securities from the IFUS Trading Floor via the IFUS electronic trading system.

The Exchange represents that there is a limited nexus between products that trade on IFUS and those that trade on the Exchange and that the only IFUS Contracts related to Exchange-traded products are futures and options on futures on certain Russell indexes, all of which are broad-based indexes as defined in Section 3(a)(55)(C)(vi) of the Securities Exchange Act of 1934 and that market participants ability to manipulate these are limited.[12] The Exchange further notes that pricing information about the products traded on the IFUS Trading Floor is contemporaneously and publicly available on Bloomberg and other quotation reporting systems. Thus, to the extent there is any correlation between the price movements of the products traded on the IFUS Trading Floor and Exchange-listed companies with exposure to those commodity-based products, the Exchange believes IFUS Traders are not in possession of any non-public information regarding pricing of such products that could be used improperly by the IFUS Traders or Exchange members. The Exchange represents that IFUS Traders represent only a small proportion of IFUS's total trading volume.[13]

The Exchange represents that Financial Industry Regulatory Authority, Inc. (''FINRA'') is provided with the names of the IFUS Traders to assist in identifying any potentially violative trading [14] and that, to date, FINRA has not identified any regulatory or other concerns about the IFUS Traders, identified suspicious activity or behavior, or identified instances where confidential order information was compromised or inappropriately used. The Exchange further represents that the following important safeguards will remain in place: (i) IFUS Traders sitting together in segregated booth space with privacy barriers to reduce the likelihood that trading screens can be viewed or conversations overheard between firms and traders; (ii) IFUS Market Regulation compliance officer performing on-site surveillance on a regular basis; and (iii) Exchange's equities and options on-Floor surveillance staff being located near the IFUS Trading Floor. Finally, the Exchange represents that its members and member organizations have been notified of their responsibly to protect the confidentiality of nonpublic order and trade information, and to not engage in any trading, order or market related communications with the IFUS Traders or their clerical staff.[15]

III. Commission Findings

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[16] The Commission believes that the proposal is consistent with Section 6(b)(5) [17] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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.

According to the Exchange, safeguards will remain in place to protect against IFUS Traders gaining an unfair competitive advantage over other market participants. The Exchange emphasizes that IFUS traders do not have wireless hand-held devices, are restricted to trading IFUS products at terminals located in the IFUS Trading Floor, and that IFUS Market Regulation compliance officers perform on-site surveillance on a regular basis. In addition, no IFUS Traders are registered to trade any Exchange securities, and they do not have the ability to enter orders in Exchange-traded securities from the IFUS Trading Floor via the IFUS electronic trading system. The Exchange also notes that there is a limited pricing nexus between products traded on IFUS, and that pricing information about the products traded

[9] There were 40 IFUS Traders last year and no IFUS Traders are members of the Exchange, NYSE MKT or Amex Options.

[10] These include the Russell 2000, Russell 1000, and Russell Value and Growth, all of which qualify as broad-based indices. The Exchange states, however, that the IFUS Traders trade only a small volume of the Russell products and, of that small volume, most is in the Russell 2000 mini-contracts.

[11] *See* Securities Exchange Act Release Nos. 68996 (February 27, 2013), 78 FR 14378 (March 5, 2013) (SR–NYSE–2013–13).

[12] 15 U.S.C. 78c(a)(55)(A). IFUS product offerings have historically been benchmark futures and options contracts relating to agricultural products, currencies, and broad-based market indexes. There are no plans to offer single stock futures on IFUS.

[13] As noted in the Original Filing, approximately 83% of IFUS's total daily contract volume is in IFUS energy contracts. The IFUS Traders transact less than 5% of the 17% of IFUS's average daily volume that is not related to energy contracts and a fraction of 1% of the total average daily IFUS volume (which includes the energy contracts transacted on IFUS).

[14] Providing the names of the IFUS Traders to FINRA was for the purpose of regulatory information sharing. Neither the Exchange nor FINRA will be responsible for regulating or surveilling the IFUS Traders' activity, and the IFUS Traders are not subject to the Exchange's jurisdiction. Rather, the IFUS Traders will continue to be regulated by IFUS.

[15] *See* Member Education Bulletin 2013–5 (March 20, 2013), available at *http://www.nyse.com/nysenotices/nyse/education-bulletins/pdf.action?memo_id=2013-5*.

[16] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78f(b)(5).

on the IFUS Trading Floor is contemporaneously and publicly available on Bloomberg and other quotation reporting systems. Finally, the Exchange notes that equities and options on-Floor surveillance staff will continue to be located near the IFUS Trading Floor and FINRA has been provided with the names of the IFUS Traders to assist in identifying any potentially violative trading involving the IFUS Traders.

Based on the foregoing, the Commission believes the proposed rule change to eliminate the restrictions on the manner in which the IFUS Traders enter the Exchange's facilities and the prohibition on IFUS Traders from entering or crossing the Main Room on the way to the IFUS Trading Floor is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NYSE–2014–39), is hereby approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–22333 Filed 9–18–14; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14116 and #14117]

American Samoa Disaster #AS–00006

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the Territory of American Samoa (FEMA–4192–DR), dated 09/10/2014.

Incident: Severe Storms, Flooding, and Landslides.

Incident Period: 07/29/2014 through 08/03/2014.

Effective Date: 09/10/2014.

Physical Loan Application Deadline Date: 11/10/2014.

Economic Injury (EIDL) Loan Application Deadline Date: 06/10/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 09/10/2014, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Territory of American Samoa

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14116B and for economic injury is 14117B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008).

Joseph P. Loddo,

Acting Associate Administrator, for Disaster Assistance.

[FR Doc. 2014–22329 Filed 9–18–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 4118 and #14119]

California Disaster #CA–00223

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of California (FEMA–4193–DR), dated 09/11/2014.

Incident: Earthquake.

Incident Period: 08/24/2014 through 09/07/2014.

Effective Date: 09/11/2014.

Physical Loan Application Deadline Date: 11/10/2014.

Economic Injury (EIDL) Loan Application Deadline Date: 06/11/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 09/11/2014, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Napa, Solano.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 141182 and for economic injury is 141192.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Joseph P. Loddo,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2014–22328 Filed 9–18–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14114 and #14115]

Guam Disaster #GU–00002

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the Territory of Guam (FEMA–4191–DR), dated 09/10/2014.

Incident: Tropical Storm Halong.

Incident Period: 07/28/2014 through 07/31/2014.

Effective Date: 09/10/2014.

Physical Loan Application Deadline Date: 11/10/2014.

Economic Injury (EIDL) Loan Application Deadline Date: 06/10/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 09/10/2014, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Guam

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 141148 and for economic injury is 141158.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008).

Joseph P. Loddo,

Acting Associate Administrator, for Disaster Assistance.

[FR Doc. 2014–22330 Filed 9–18–14; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995 (PRA), effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov*

(SSA), Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov*

SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than October 20, 2014. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov.*

1. *Marital Relationship Questionnaire—20 CFR 416.1826—0960–0460.* SSA uses Form SSA–4178, Marital Relationship Questionnaire, to determine if unrelated individuals of the opposite sex who live together are misrepresenting themselves as husband and wife. SSA needs this information to determine whether we are making correct payments to couples and individuals applying for or currently receiving Supplemental Security Income (SSI) payments. The respondents are applicants for and recipients of SSI payments.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Total estimated annual burden (hours)
SSA–4178	5,100	1	5	425

2. *SSI Notice of Interim Assistance Reimbursement (IAR)—0960–0546.* Section 1631(g) of the Social Security Act authorizes SSA to reimburse an IAR agency from an individual's retroactive SSI payment for assistance the IAR agency gave the individual for meeting basic needs while an SSI claim was pending or SSI payments were suspended or terminated. The State or local agency needs an IAR agreement with SSA to participate in the IAR program. The individual receiving the IAR payment signs an authorization form with an IAR agency to allow SSA to repay the IAR agency for funds paid in advance prior to SSA's determination on the individual's claim. The authorization represents the individual's intent to file for SSI, if they did not file an application prior to SSA receiving the authorization. Agencies who wish to enter into an IAR agreement with SSA need to meet the following requirements:

(a) Reporting Requirements—Each IAR agency agrees to:

(1) Notify SSA of receipt of an authorization for initial claims or cases they are appealing, and submit a copy of that authorization either through a manual or electronic process;

(2) inform SSA of the amount of reimbursement;

(3) submit a written request for dispute resolution on a determination;

(4) notify SSA of interim assistance paid (using the SSA–8125 or the SSA–L8125–F6);

(5) inform SSA of any deceased claimants who participate in the IAR program and;

(6) review and sign an agreement with SSA.

(b) Recordkeeping Requirements—The IAR agencies agree to retain all notices, agreement, authorizations, and accounting forms for the period defined in the IAR agreement for the purposes of SSA verifying transactions covered under the agreement.

(c) Third Party Disclosure Requirements: Each participating IAR agency agrees to send written notices from the IAR agency to the recipient

regarding payment amounts and appeal rights.

(d) Periodic Review of Agency Accounting Process—The IAR agency makes the IAR accounting records of paid cases available for SSA review and verification. SSA conducts reviews either onsite or through the mail of the authorization forms, notices to the claimant and accounting forms. Upon completion of the review, SSA provides a written report of findings to the IAR agency director.

The respondents are State IAR officers.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents (States)	Frequency of response	Number of responses	Average burden per response (minutes)	Total estimated annual burden (hours)
Reporting Requirements					
(a) State notification of receipt of authorization (Electronic Process).	11	Once per SSI Claimant	97,330	1	1,622
(b) State submission of copy of authorization (Manual Process).	27	Once per SSI Claimant	68,405	3	3,420
(c) State submission of amount of IA paid to recipients (using eIAR).	38	Once per SSI Claimant	101,352	8	13,514
(d) State request for determination—dispute resolution.	([1])	As needed	2	30	1
(e) State computation of reimbursement due from SSA using paper Form SSA–L8125–F6.	38	Once per SSI Claimant	1,524	30	762
(f) State notification to SSA of deceased claimant.	20	As needed when SSI claimant dies while claim is pending.	40	15	10
(g) State reviewing/signing of IAR Agreement.	38	Once during life of the IAR agreement.	38	[2]12	456
Recordkeeping Requirements					
(h) Maintenance of authorization forms	38	One form per SSI claimant	[3]165,735	3	8,287
(i) Maintenance of accounting forms and notices.	38	One set per SSI claimant	101,352	3	5,068
Third Party Disclosure Requirements					
(j) Written notice from State to recipient regarding amount of payment.	38	One per SSI claimant	101,352	7	11,824
Periodic Review of Agency Accounting Process					
(k) Retrieve and consolidate authorization and accounting forms.	12	One set of forms per SSI claimant for review by SSA once every 2 to 3 years.	12	3	36
(l) Participate in periodic review	12	For review by SSA once every 2 to 3 years.	12	16	192
(m) Correct administrative and accounting discrepancies.	6	To correct errors discovered by SSA in periodic review.	6	4	24
Total Administrative Burden					
Totals	38	Varies	639,161	Varies	45,217

[1]Average of about 2 States per year.
[2]Hours.
[3]Includes both denied and approved SSI claims.

3. *Medical Source Statement of Ability To Do Work Related Activities (Physical and Mental)—20 CFR 404.1512–404.1514, 404.912–404.914, 404.1517, 416.917, 404.1519–404.1520, 416.919–416.920, 404.946, 416.946, 404–1546—0960–0662.* In some instances when a claimant appeals a denied disability claim, SSA may ask the claimant to have a consultative examination, at the agency's expense, if the claimant's medical sources cannot or will not give the agency sufficient evidence to determine whether the claimant is disabled. The medical providers who perform these consultative examinations provide a statement about the claimant's state of disability. Specifically, these medical source statements determine the work-related capabilities of these claimants. SSA collects the medical data on the HA–1151 and HA–1152 to assess the work-related physical and mental capabilities of claimants who appeal SSA's previous determination on their issue of disability. The respondents are medical sources who provide reports based either on existing medical evidence or on consultative examinations.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Number of responses	Average burden per response	Total estimated annual burden (hours)
HA–1151	5,000	30	150,000	15	37,500
HA–1152	5,000	30	150,000	15	37,500
Totals	10,000		300,000		75,000

4. *Electronic Records Express—20 CFR 404.1512 and 416.912—0960–0753.* Electronic Records Express (ERE) is a Web-based SSA program that allows medical and educational providers to electronically submit disability claimant data to SSA. Both medical providers and other third parties with connections to disability applicants or recipients (e.g., teachers and school administrators for child disability applicants) use this system once they complete the registration process. SSA employees and State agency employees request the medical and educational records collected through the ERE Web site. The agency uses the information collected through ERE to make a determination on an Application for Benefits. We also use the ERE Web site to order and receive consultative examinations when we are unable to collect enough medical records to determine disability findings. The respondents are medical providers who evaluate or treat disability claimants or recipients, and other third parties with connections to disability applicants or recipients (ex: Teachers and school administrators for child disability applicants), who voluntarily choose to use ERE for submitting information.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Total estimated annual burden (hours)
ERE	4,508,968	1	10	751,495

5. *Application for Access to SSA Systems—20 CFR 401.45—0960–0791.* SSA uses Form SSA–120, Application for Access to SSA Systems, to allow limited access to SSA's information resources for SSA employees and non-Federal employees (contractors). SSA requires supervisory approval, and local or component Security Officer review prior to granting this access. The respondents are SSA employees and non-Federal Employees (contractors) who require access to SSA systems to perform their jobs.

Note: Because SSA employees are Federal workers exempt from the requirements of the PRA, the burden below is only for SSA contractors.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Total estimated annual burden (hours)
SSA–120 (paper version)	2,148	1	2	73
SSA–120 (Internet version)	1,105	1	3	37
Totals	3,289			110

Dated: September 16, 2014.

Faye Lipsky,

Reports Clearance Director, Social Security Administration.

[FR Doc. 2014–22341 Filed 9–18–14; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Office of Commercial Space Transportation; Notice of Availability and Request for Comment on the Draft Environmental Assessment (EA) for the Kodiak Launch Complex Launch Pad 3, Kodiak Island, Alaska

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

ACTIONS: Notice of availability, notice of public comment period, notice of public meeting and request for comment.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA; 42 United States Code 4321 *et seq.*), Council on Environmental Quality NEPA implementing regulations (40 Code of Federal Regulations parts 1500 to 1508), and FAA Order 1050.1E, Change 1, *Environmental Impacts: Policies and Procedures,* the FAA is announcing the availability of and requesting comments on the Draft Environmental Assessment for the Kodiak Launch Complex Launch Pad 3 (Draft EA).

FOR FURTHER INFORMATION CONTACT: Stacey M. Zee, Federal Aviation Administration, c/o ICF International, 9300 Lee Highway, Fairfax, VA 22031;

email *FAAKodiakEA@icfi.com;* telephone (202) 267–9305.

SUPPLEMENTARY INFORMATION: The Draft EA was prepared to analyze the potential environmental impacts of the FAA modifying the Alaska Aerospace Corporation's (AAC's) Launch Site Operator License to include medium-lift launch capability at the Kodiak Launch Complex (KLC), a commercial launch site currently operated under a FAA Launch Site Operator License (LSO–03–008), which authorizes only small-lift operations. Expansion of launch capabilities at KLC would include the addition of new infrastructure necessary to support medium-lift launches, including the construction of a launch pad and associated facilities. As part of the Proposed Action addressed in the EA, AAC would make improvements to the KLC to add both solid and liquid-propellant, medium-lift launch capability, and to operate the KLC in the future as a small-lift and medium-lift launch complex. Proposed construction at KLC includes six primary modifications: construction of Launch Pad 3 (LP3), a vehicle processing facility, rocket staging facility, liquid fuel facility, mission control center and improvements to Pasagshak Point Road. Proposed launch operations would include up to six orbital small-lift launches and three medium-lift launches per year from the existing launch pads and from the proposed LP3; however, to be conservative in the analysis of potential environmental impacts in this Draft EA, the EA assumes a maximum of nine medium-lift launches per year.

The Draft EA addresses the potential environmental impacts of implementing the Proposed Action and the No Action Alternative. Under the No Action Alternative, the FAA would not modify AAC's Launch Site Operator License to include medium-lift launch capability and AAC would not proceed with the construction of medium-lift launch support infrastructure at KLC. Existing launch activities for up to nine orbital small-lift class launches per year from the existing launch pads would continue.

The impact categories considered in the Draft EA include air quality; compatible land use; Department of Transportation Act: Section 4(f); fish, wildlife, and plants; hazardous materials, pollution prevention, and solid waste; historical, architectural, archaeological, and cultural resources; light emissions and visual impacts; natural resources and energy supply; noise; socioeconomic, environmental justice, and children's environmental health and safety risk; water quality; and wetlands. The Draft EA also considers the potential cumulative environmental impacts.

The FAA has posted the Draft EA on the FAA Office of Commercial Space Transportation Web site: *http://www.faa.gov/about/office_org/headquarters_offices/ast/environmental/nepa_docs/review/documents_progress/kodiak_launch/.*

A paper copy and a CD version of the Draft EA may be reviewed for comment during regular business hours at the following libraries:

- Kodiak Public Library, 612 Egan Way, Kodiak, AK 99615
- University of Alaska Anchorage—Carolyn Floyd Library, 117 Benny Benson Drive, Kodiak, AK 99615
- Anchorage Municipal Library, 3600 Denali St., Anchorage, AK 99503

The FAA will hold an open house public meeting to solicit comments from the public concerning the scope and content of the Draft EA. Details of the meeting are as follows:

- October 7, 2014, 5:00 p.m. to 8:00 p.m., Kodiak Inn Best Western, Katurwik Room, 236 E. Rezanof Dr., Kodiak, AK 99615

The public will be able to speak to project representatives one-on-one and submit written comments or provide oral comments to a stenographer. Oral and written comments are weighted evenly.

SUPPLEMENTARY INFORMATION: The FAA encourages all interested parties to provide comments concerning the scope and content of the Draft EA. To ensure that all comments can be addressed in the Final EA, comments on the draft must be received by the FAA no later than October 15, 2014. Comments should be as specific as possible and address the analysis of potential environmental impacts and the adequacy of the proposed action or merits of alternatives and the mitigation being considered. Reviewers should organize their comments to be meaningful and inform the FAA of their interests and concerns by quoting or providing specific references to the text of the Draft EA. Matters that could have been raised with specificity during the comment period on the Draft EA may not be considered if they are raised for the first time later in the decision process. This commenting procedure is intended to ensure that substantive comments and concerns are made available to the FAA in a timely manner so that the FAA has an opportunity to address them.

ADDRESSES: Please submit comments in writing to Stacey M. Zee, Federal Aviation Administration, c/o ICF International, 9300 Lee Highway, Fairfax, VA 22031; or by email at *FAAKodiakEA@icfi.com.*

Issued in Washington, DC on September 15, 2014.

Daniel Murray,

Manager, Space Transportation Development Division.

[FR Doc. 2014–22401 Filed 9–18–14; 8:45 am]

BILLING CODE 4310–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Research, Engineering and Development Advisory Committee

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the FAA Research, Engineering and Development (R,E&D) Advisory Committee.

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Meeting.

Name: Research, Engineering & Development Advisory Committee.

Time and Date: October 09, 2014—9:30 a.m. to 4:00 p.m.

Place: Federal Aviation Administration, 800 Independence Avenue SW.—Round Room (10th Floor), Washington, DC 20591.

Purpose: The meeting agenda will include receiving from the Committee guidance for FAA's research and development investments in the areas of air traffic services, airports, aircraft safety, human factors and environment and energy. Attendance is open to the interested public but seating is limited. Persons wishing to attend the meeting or obtain information should contact Chinita A. Roundtree-Coleman at (609) 485–7149 or *chinita.roundtree-coleman@faa.gov.* Members of the public may present a written statement to the Committee at any time.

Issued in Washington, DC, on September 8, 2014.

Chinita A. Roundtree-Coleman,

Computer Specialist.

[FR Doc. 2014–22381 Filed 9–18–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2014–0086]

Notice of Request for Applications for Appointment to the National Emergency Medical Services Advisory Council

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT).

ACTION: Notice of Request for Applicants for Appointment/Reappointment to the National Emergency Medical Services Advisory Council (NEMSAC).

SUMMARY: NHTSA and its partners at the Departments of Health and Human Services (HHS) and Homeland Security (DHS) are soliciting applications for appointment or reappointment to DOT's NEMSAC. The purpose of NEMSAC, a nationally recognized council of emergency medical services representatives and consumers, is to advise and consult with DOT and the Federal Interagency Committee on EMS (FICEMS) on matters relating to emergency medical services (EMS). More information on NEMSAC, including its previous recommendations, its charter, and its current membership is available at *www.EMS.gov/NEMSAC.htm.*

DATES: Application packages as described below must be received by NHTSA on or before December 1, 2014.

ADDRESSES: If you wish to apply for membership, your application package should be submitted by:

- *Email: NEMSAC@dot.gov;*
- *Fax:* (202) 366–7149; or
- *Mail: Use only overnight mail such as UPS or FedEx to:* U.S. Department of Transportation, National Highway Traffic Safety Administration, Office of Emergency Medical Services, Attn: Noah Smith, 1200 New Jersey Avenue SE., NTI–140, Washington, DC 20590.

Any person needing accessibility accommodations should contact Noah Smith at (202) 366–5030.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer, Drew Dawson, Director, Office of Emergency Medical Services at (202) 366–9966; or Noah Smith at (202) 366–5030 or via email at *NEMSAC@dot.gov.*

SUPPLEMENTARY INFORMATION: Notice of this call for applications is given under the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. 2). The NEMSAC is authorized under Section 31108 of the Moving Ahead with Progress in the 21st Century Act of 2012.

The National Highway Traffic Safety Administration is hereby soliciting nominations for members of the NEMSAC. The Secretary of Transportation, in coordination with HHS and DHS, will appoint 25 Council members on or around April 22, 2015. Members will be selected with a view toward achieving a varied and balanced perspective on emergency medical services. The Council will be composed of non-Federal experts representing various sectors of the EMS community. To the extent reasonable, one member will be appointed to represent the perspectives of each of the following 24 particular sectors of EMS:

- EMS Practitioners
- Volunteer EMS
- Fire-based (career) EMS
- Private (career non-fire) EMS
- Hospital-based EMS
- Tribal EMS
- Air Medical EMS
- Local EMS service director/administrators
- EMS Medical Directors
- Emergency Physicians
- Trauma Surgeons
- Pediatric Emergency Physicians
- State EMS Directors
- State Highway Safety Directors
- EMS Educators
- Public Safety Call-taker/Dispatcher (911)
- EMS Data Managers
- EMS Researchers
- Emergency Nurses
- Hospital Administration
- Public Health
- Emergency Management
- Consumers (not directly affiliated with an EMS or healthcare organization)
- State or local legislative bodies (e.g. city/county councils; State legislatures)

The Council's broad-based membership will assure that it has sufficient EMS system expertise and geographic and demographic diversity to accurately reflect the EMS community as a whole. Applications for members within the EMS community will be solicited from a wide array of national organizations and the public. These members will be selected for their individual expertise and to assure balanced representation from across the EMS community, but no member will represent a specific organization or association. Membership balance is not static and may change, depending on the work of the Council.

Council members serve for a term of 2 years and may be reappointed for one additional successive term. The Chair and Vice Chair of the Council are elected annually from among the selected members, and the Council is expected to meet approximately three times per year or as necessary in Washington, DC. Members serve in a ''representative'' capacity on NEMSAC and not as Special Government Employees. Members are unpaid; however, the NHTSA Office of EMS sponsors the associated costs for members to travel to Washington, DC.

Process and Deadline for Submitting New Applications: Individuals must self-nominate and must apply to represent specific sectors of EMS as outlined above. Applicants may apply to represent more than one sector. There is no standard application. Instead, to be considered for the NEMSAC, applicants must submit the following information in a single package:

(1) A cover letter addressed to the Designated Federal Officer, Drew Dawson, that includes:

a. The applicant's full name, title, home address, phone number, and email address;

b. Under the heading ''SECTOR(S) OF EMS'' a listing of which sectors of EMS the applicant is applying to represent from the list of 24 above; and

c. An explanation of why the applicant is applying to be a NEMSAC member and how their experience and/or education qualifies them to represent each sector for which they are applying to represent;

(2) A resume or curriculum vitae;

(3) A short biography of the applicant including professional and academic credentials not to exceed 150 words;

(4) Up to four (4) letters of support or recommendation from a company, union, trade association, non-profit organization or individual on letterhead containing a brief description why the applicant should be considered for appointment; and

(5) An affirmative statement that the applicant is not a federally registered lobbyist, and that the applicant understands that if appointed, the applicant will not be allowed to continue to serve as a Council member if the applicant becomes a federally registered lobbyist;

Please do not send company, trade association, or organization brochures or any other information. Should more information be needed, DOT staff will contact the applicant, obtain information from their past affiliations, or obtain information from publicly available sources, such as the Internet.

It is preferred that application packages be emailed to *NEMSAC@dot.gov,* but they may also be faxed to the attention of Noah Smith at (202) 366–7149, or mailed to the U.S.

Department of Transportation, National Highway Traffic Safety Administration, Office of Emergency Medical Services, Attn: Noah Smith, 1200 New Jersey Avenue SE., NTI–140, Washington, DC, 20590. If mailing, please use only overnight mail such as UPS or FedEx. Applications must be received on or before December 1, 2014. Applications selected for appointment to the NEMSAC will be notified by email and by a letter of appointment.

Process and Deadline for Current NEMSAC Members to Apply for Reappointment: The NEMSAC charter stipulates a two-term limit for appointees, thus currently appointed members of NEMSAC in their first terms are eligible to apply for reappointment. Current NEMSAC members in their first term may apply for reappointment by submitting a cover letter addressed to the Designated Federal Officer, Drew Dawson with an explanation of why the member is seeking reappointment and an updated resume or curriculum vitae. The deadline and methods for submission are the same as above for new applicants.

Issued in Washington, DC, on September 16, 2014, under authority delegated in 49 CFR part 1.95.

Jeffrey P. Michael,

Associate Administrator for Research and Program Development.

[FR Doc. 2014–22360 Filed 9–18–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 933 (Sub–No. 1X)]

Dakota, Missouri Valley and Western Railroad, Inc.—Discontinuance of Service Exemption—in Burke County, ND

On August 29, 2014, Dakota, Missouri Valley and Western Railroad, Inc. (DMVW) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to discontinue rail service over two connecting lines in Burke County, N.D. The first line, known as the Flaxton-Stampede Line, is approximately 17 miles long and consists of segments between: (1) Milepost 541.0 at Flaxton and milepost 549.64 at Rival; (2) milepost 549.64 and milepost 550.8 at Lignite Junction; and (3) milepost 550.8 and milepost 558.0 near Stampede.[1] The second line, known as the Lignite Line, is approximately 9.96 miles long and extends from milepost 550.8 (previously Burlington Northern Santa Fe (BNSF) milepost 56.96) at Lignite Junction to the end of Soo Line Railroad Company d/b/a Canadian Pacific Railway Company's ownership (previously BNSF milepost 47).[2] The Flaxton-Stampede Line and Lignite Line (collectively, Lines) traverse U.S. Postal Service Zip Codes 58737, 58722, 58752, 58727, and 58721.[3]

DMVW states that the Lines do not contain any federally granted rights-of-way. Any documentation in petitioner's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by December 17, 2014.

Because this is a discontinuance proceeding and not an abandonment proceeding, trail use/rail banking and public use conditions are not appropriate. Similarly, no environmental or historic documentation is required under 49 CFR 1105.6(c)(2) and 1105.8.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) to subsidize continued rail service will be due no later than December 26, 2014, or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner. Each offer must be accompanied by a $1,600 filing fee. *See* 49 CFR 1002.2(f)(25).

All filings in response to this notice must refer to Docket No. AB 933 (Sub-No. 1X) and must be sent to: (1) Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001; and (2) Edward J. Fishman, K&L Gates LLP, 1601 K St. NW., Washington, DC 20006–1600. Replies to the petition are due on or before October 8, 2014.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full abandonment and discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

Board decisions and notices are available on our Web site at ''*www.stb.dot.gov*.''

Decided: September 15, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2014–22374 Filed 9–18–14; 8:45 am]

BILLING CODE 4915–01–P

[1] DMVW has been operating over the Flaxton-Stampede Line since 1990 pursuant to leases and trackage rights from Canadian Pacific Railway Company (CP). *See Dakota, Missouri Valley and W. R.R.—Lease and Oper. Exemption—Soo Line R.R.,* FD 31720 (ICC served Sept. 19, 1990).

[2] DMVW has been operating over the Lignite Line since 2007 pursuant to a lease from CP. *See Dakota, Missouri Valley & W. R.R.—Lease and Oper. Exemption—Soo Line R.R. d/b/a Canadian Pac. Ry.,* FD 35055 (STB served Aug. 10, 2007).

[3] In June 2014, CP notified DMWV that it was removing the Lines from the parties' lease agreement so that CP could take over common carriage operations on the Lines. DMVW will retain the right to operate over the Lines for the sole purpose of exchanging railcars with CP at Flaxton.

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Privacy Act of 1974, as Amended; System of Records

AGENCY: Bureau of the Fiscal Service, Department of the Treasury.

ACTION: Notice of new Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Department of the Treasury, Bureau of the Fiscal Service (Fiscal Service) proposes to establish a new Privacy Act system of records entitled, ''Department of the Treasury/Bureau of the Fiscal Service .024—OneVoice Customer Relationship Management.'' This system of records allows the Fiscal Service to collect and maintain records that will allow the bureau to manage its customer interactions with its external ''business'' customers and vendors.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), the public is given a 30-day period in which to comment. Therefore, comments must be received no later than October 20, 2014. If no comments are received, the system will be effective on October 20, 2014.

ADDRESSES: Comments should be sent to Disclosure Officer, Bureau of the Fiscal Service, 401 14th Street SW., Washington, DC 20227, Attention: Revisions to Privacy Act Systems of Records. You may send your comments by electronic mail to *David.Ambrose@*

fiscal.treasury.gov. For emails, please place ''Revisions to SOR'' in the subject line. Comments received will be available for inspection by appointment at the address listed above between the hours of 9 a.m. and 4 p.m. Monday through Friday. You should submit only information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT:

For general questions please contact:

April Battle,
Director, Office of Agency Outreach,
Bureau of the Fiscal Service,
401 14th Street SW.,
Washington, DC 20227,
Phone: (202) 874–7491,
Email: *April.Battle@fiscal.treasury.gov.*

For privacy issues please contact:

David Ambrose,
Chief Privacy Officer,
Bureau of the Fiscal Service,
3700 East-West Highway, Room 803–A,
Hyattsville, MD 20782,
Phone: (202) 874–6488,
Email: *David.Ambrose@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Fiscal Service is responsible for providing reimbursable support services to federal agencies and for promoting the financial integrity and operational efficiency of the federal government through shared services. The Fiscal Service proposes to implement a Customer Relationship Management (CRM) tool to allow the bureau to manage its interactions with its external ''business'' customers and vendors. This tool will be configured for the enterprise using a ''business to business'' communication model. The CRM tool will benefit the Fiscal Service in these missions by: Centralizing customer contact data and related information, thereby providing a framework for implementing bureau-wide processes to enhance the ''OneVoice'' model (i.e., centralized reference point, collaborative processes, etc.); and establishing more efficient and streamlined processes with respect to customer outreach and other communication interactions.

The records covered by the proposed system of records may include personally identifiable information for work related contacts in government or state agencies, vendor organizations and other customer organizations working in conjunction with the Treasury to achieve its mission and objectives. Information that will be maintained will include: Full names, titles, physical work address, phone/fax numbers, and email address. Without such information it would not be possible to communicate effectively with current and prospective vendors and clients. The records may be received directly by the Fiscal Service, its fiscal or financial agents, and/or contractors.

Fiscal Service recognizes the sensitive nature of the confidential information it obtains when collecting individuals' names and addresses, and has many safeguards in place to protect the information from theft or inadvertent disclosure. When appropriate, the Fiscal Service's arrangements with its fiscal and financial agents and contractors include requirements that preclude them from retaining, disclosing, and using the information for any purpose other than contacting clients and vendors for business purposes. In addition to various procedural and physical safeguards, access to computerized records is limited through the use of access codes, encryption techniques and other internal mechanisms. Fiscal Service managers only grant access to the system of records to those whose official duties require access to the information.

Information stored in the OneVoice CRM tool may be shared with other Treasury components, as well as appropriate federal, state, local, tribal, territorial, foreign, or international government agencies. This sharing will only take place after Treasury determines that the receiving Treasury component or agency has a need to know the information to carry out national security, law enforcement, immigration, intelligence, or other functions consistent with the routine uses set forth in this system of records notice. This newly established system will be included in Treasury's inventory of record systems.

As required by 5 U.S.C. 552a(r) of the Privacy Act, the report of a new system of records has been provided to the House of Representatives Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and OMB.

The proposed new system of records, entitled ''Treasury/Bureau of the Fiscal Service—.024 OneVoice Customer Relationship Management'' is published in its entirety below.

II. Public Disclosure.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: September 5, 2014.

Helen Goff Foster,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

Treasury/Fiscal Service .024

SYSTEM NAME:

OneVoice Customer Relationship Management—Department of the Treasury/Bureau of the Fiscal Service.

SYSTEM LOCATION:

Records are maintained at the Bureau of the Fiscal Service (''Fiscal Service''), United States Department of the Treasury (''Treasury''), Washington, DC 20227. Records are also located throughout the United States at Fiscal Service operations centers, Federal Records Centers, Federal Reserve Banks acting as Treasury's fiscal agents, and financial institutions acting as Treasury's financial agents. The specific address for each of the aforementioned locations may be obtained upon request.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Sole proprietors and other entities which provide goods and/or services to the Fiscal Service (Vendors); and individuals representing agencies that purchase goods and/or services through the Fiscal Service (Clients).

CATEGORIES OF RECORDS IN THE SYSTEM:

- Client's or Vendor's Name,
- Agency or Organization identifier (if applicable),
- Position Information (Title and Expertise Area),
- Phone and Fax Numbers,
- Email Addresses, and
- Physical Work Address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

The purpose of this system of records is to establish a CRM tool within the Fiscal Service. An enterprise-wide CRM tool is necessary to strategically promote, share, and guide the organization in developing processes for marketing, messaging, outreach, engagement and consistent product and service implementations. In addition, this system will increase transparency; improve outreach, communications and collaboration efforts with our customers and vendors; and employ sound, repeatable methodologies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside Treasury as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) To a federal, state, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information necessary or relevant to the requesting agency's official functions;

(2) To a Congressional office from the record of an individual in response to an inquiry from that congressional office made pursuant to a written Privacy Act waiver at the request of the individual to whom the record pertains;

(3) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena;

(4) To appropriate agencies, entities, and individuals when:

(a) Treasury suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

(b) Treasury has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and

(c) the disclosure made to such agencies, entities, and individuals is reasonably necessary to assist in connection with Treasury's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm; or

(5) To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906;

(6) To the news media and the public, with the approval of the Fiscal Service Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of Treasury or is necessary to demonstrate the accountability of Treasury's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored electronically on magnetic disc, tape, and similar electronic media.

RETRIEVABILITY:

Records may be retrieved by name, address, or other alpha/numeric identifying information.

SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable Treasury automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties, and who have appropriate permissions.

RETENTION AND DISPOSAL:

Once interactions with a customer or vendor are concluded, the customer or vendor account is disabled. Records related to the interactions are destroyed at the end of the fiscal year seven years from the date that the account is disabled.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Agency Outreach
401 14th Street, SW
Washington, DC 20227

NOTIFICATION PROCEDURE:

Inquiries under the Privacy Act of 1974, as amended, should be addressed to the Disclosure Officer, Bureau of the Fiscal Service, 401 14th Street SW., Washington, DC 20227. Individuals should describe the information they seek as specifically as possible. If an individual requests that information in a record be corrected, the system manager will advise the requestor where to send the request. Information concerning Privacy Act requests are published at 31 CFR part 1, Subpart C, and Appendix G.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Records are obtained directly from clients and vendors and added to the system by authorized Fiscal Service employees, contractors, and fiscal or financial agents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2014–22366 Filed 9–18–14; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Information Collection; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before November 18, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie A. Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, reporting or recordkeeping requirement number, and OMB number (if any) in your comment.

FOR FURTHER INFORMATION CONTACT: To obtain additional information, or copies of the information collection and instructions, or copies of any comments received, contact Elaine Christophe, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Elaine.H.Christophe@irs.gov.*

SUPPLEMENTARY INFORMATION:

Request for Comments

The Department of the Treasury and the Internal Revenue Service, as part of

their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to take this opportunity to comment on the proposed or continuing information collections listed below in this notice, as required by the Paperwork Reduction Act of 1995, (44 U.S.C. 3501 *et seq.*).

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments will become a matter of public record. Please do not include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether the collection of information is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate 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 of the collection of information on respondents, including 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 the requested information.

Currently, the IRS is seeking comments concerning the following forms, and reporting and recordkeeping requirements:

(1) *Title:* Employer's Annual Federal Unemployment (FUTA) Tax Return (Form 940) and Planilla Para La Declaracion Anual Del Patrono—La Contribucion Federal Para El Desempleo (FUTA) (Form 940–PR).

OMB Number: 1545–0028.

Form Number: 940 and 940–PR.

Abstract: Internal Revenue Code section 3301 imposes a tax on employers based on the first $7,000 of taxable wages paid to each employee. The tax is computed and reported on Forms 940 and 940–PR (Puerto Rico employers only). IRS uses the information on Forms 940 and 940–PR to ensure that employers have reported and figured the correct FUTA wages and tax.

Current Actions: There are changes to the previously approved burden of this existing collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, individuals, or households, and farms.

Estimated Number of Respondents: 8,211,486.

Estimated Time per Respondent: 71 hrs., 21 min.

Estimated Total Annual Burden Hours: 119,299,117.

(2) *Title:* Form 990–BL, Schedule A (Form 990–BL), Information and Initial Excise Tax Return for Black Lung Benefit Trusts and Certain Related Persons, and Form 6069, Return of Excise Tax on Excess Contributions to Black Lung Benefit Trust Under Section 4953 and Computation of Section 192 Deduction.

OMB Number: 1545–0049.

Form Number: Form 990–BL; Schedule A (Form 990–BL), and Form 6069.

Abstract: IRS uses Form 990–BL to monitor activities of black lung benefit trusts, and to collect excise taxes on these trusts and certain related persons if they engage in proscribed activities. The tax is figured on Schedule A and attached to Form 990–BL. Form 6069 is used by coal mine operators to figure the maximum deduction to a black lung benefit trust. If excess contributions are made, IRS uses the form to figure and collect the tax on excess contributions.

Current Actions: There are changes to the previously approved burden of this existing collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, and not-for-profit institutions.

Form 990–BL & Schedule A (Form 990–BL)

Estimated Number of Respondents: 22.

Estimated Time per Respondent: 34 hours, 15 minutes.

Estimated Total Annual Burden Hours: 754.

Form 6069

Estimated Number of Respondents: 0.

Estimated Time per Respondent: 9 hours, 56 minutes.

Estimated Total Annual Burden Hours: 0.

(3) *Titl*e: Application for Recognition of Exemption Under Section 521 of the Internal Revenue Code.

OMB Number: 1545–0058.

Form Number: 1028.

Abstract: Farmers' cooperatives must file Form 1028 to apply for exemption from Federal income tax as being organizations described in Internal Revenue Code section 521. The information on Form 1028 provides the basis for determining whether the applicants are exempt.

Current Actions: There are changes being made to the burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 8.

Estimated Time per Respondent: 71 hours, 53 minutes.

Estimated Total Annual Burden Hours: 576.

(4) *Title:* Dividends and Distributions.

OMB Number: 1545–0110.

Form Number: 1099–DIV.

Abstract: Form 1099–DIV is used by the IRS to insure that dividends are properly reported as required by Internal Revenue Code section 6042, that liquidation distributions are correctly reported as required by Code section 6043, and to determine whether payees are correctly reporting their income.

Current Actions: There are changes to the previously approved burden of this existing collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 87,476,600.

Estimated Time per Response: 23 minutes.

Estimated Total Annual Burden Hours: 34,115,874.

(5) *Title:* Certain Gambling Winnings.

OMB Number: 1545–0238.

Form Number: Form W–2G.

Abstract: Internal Revenue Code sections 6041, 3402(q), and 3406 require payers of certain gambling winnings to withhold tax and to report the winnings to the IRS. IRS uses the information to verify compliance with the reporting rules and to verify that the winnings are properly reported on the recipient's tax return.

Current Actions: There are changes to the previously approved burden of this existing collection.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, state or local governments, and non-profit institutions.

Estimated Number of Responses: 10,499,700.

Estimated Time per Response: 24 minutes.

Estimated Total Annual Burden Hours: 4,304,877.

(6) *Title:* Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual.

OMB Number: 1545–0795.

Form Number: 8233.

Abstract: Compensation paid to a nonresident alien individual for

independent personal services (self-employment) is generally subject to 30% withholding or graduated rates. However, such compensation may be exempt from withholding because of a U.S. tax treaty or the personal exemption amount. Form 8233 is used to request exemption from withholding. Nonresident alien students, teachers, and researchers performing dependent personal services also use Form 8233 to request exemption from withholding.

Current Actions: There are changes to the burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 75,617.

Estimated Time per Respondent: 9 hrs., 3 min.

Estimated Total Annual Burden Hours: 684,334.

(7) *Title:* Direct Deposit or Refund of $1 Million or More.

OMB Number: 1545–1763.

Form Number: 8302.

Abstract: This form is used to request a deposit of a tax refund of $1 million or more directly into an account at any U.S. bank or other financial institution that accepts direct deposits.

Current Actions: There are changes to the previously approved burden of this existing collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households.

Estimated Number of Respondents: 584.

Estimated Time per Respondent: 2 hours, 57 minutes.

Estimated Total Annual Burden Hours: 1,729.

(8) *Title:* Limitations on Net Operating Loss Carry-forwards and Certain Built-in Losses and Credits Following an Ownership Change of a Consolidated Group.

OMB Number: 1545–1218.

Regulation Project Number: TD 8824.

Abstract: Section 1502 provides for the promulgation of regulations with respect to corporations that file consolidated income tax returns. Section 382 limits the amount of income that can be offset by loss carryovers and credits after an ownership change. These final regulations provide rules for applying section 382 to groups of corporations that file a consolidated return.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 12,054.

Estimated Time per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 662.

(9) *Title:* Changes With Respect to Prizes and Awards and Employee Achievement Awards.

OMB Number: 1545–1100.

Regulation Project Number: IA–111–86 (REG–209106–89)

Abstract: This regulation requires recipients of prizes and awards to maintain records to determine whether a qualifying designation has been made in accordance with section 74(b)(3) of the Internal Revenue Code. The affected public is prize and award recipients who seek to exclude the cost of a qualifying prize or award.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 5,100.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 1,275.

(10) *Title:* Preparer Penalties-Manual Signature Requirement (Sec. 1.6695–1(B)).

OMB Number: 1545–1385.

Regulation Project Numbers: TD 8549 (GL–238–88).

Abstract: This regulation provides that persons who prepare U.S. Fiduciary income tax returns for compensation may, under certain conditions, satisfy the manual signature requirements by using a facsimile signature. However, they will be required to submit to the IRS a list of the names and identifying numbers of all fiduciary returns which are being filed with a facsimile signature.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 20,000.

Estimated Time per Respondent: 1 hour, 17 min.

Estimated Total Annual Burden Hours: 25,825.

(11) *Title:* Revision of Regulations Relating to Withholding of Tax on Certain U.S. Source Income Paid to Foreign Persons and Revision of Information Reporting Regulations.

OMB Number: 1545–1484.

Regulation Project Number: REG–242282–97 (TD 8881-final).

Abstract: This regulation prescribes collections of information for foreign persons that received payments subject to withholding under sections 1441, 1442, 1443, or 6114 of the Internal Revenue Code. This information is used to claim foreign person status and, in appropriate cases, to claim residence in a country with which the United States has an income tax treaty in effect, so that withholding at a reduced rate of tax may be obtained at source. The regulation also prescribes collections of information for withholding agents. This information is used by withholding agents to report to the IRS income paid to a foreign person that is subject to withholding under Code sections 1441, 1442, and 1443. The regulation also requires that a foreign taxpayer claiming a reduced amount of withholding tax under the provisions of an income tax treaty must disclose its reliance upon a treaty provision by filing Form 8833 with its U.S. income tax return.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, not-for-profit institutions, farms, and Federal, state, local or tribal governments.

The burden for the reporting requirements is reflected in the burden of Forms W–8BEN, W–8ECI, W–8EXP, W–8IMY, 1042, 1042S, 8233, 8833, and the income tax return of a foreign person filed for purposes of claiming a refund of tax.

(12) *Title:* Application of the Grantor Trust Rules to Nonexempt Employees' Trusts.

OMB Number: 1545–1498.

Regulation Project Number: REG–209826–96.

Abstract: This regulation provides rules for the application of the grantor trust rules to certain nonexempt employee's trusts. Under Section 1.671–1(h)(3)(iii) of the regulation, the overfunded amount for certain foreign employees' trusts will be reduced to the extent the taxpayer demonstrates to the Commissioner, and indicates on a statement attached to a timely filed Form 5471, that the overfunded amount is attributable to a reasonable funding exception. The IRS needs this information to determine accurately the portion of the trust that is properly treated as owned by the employer.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,000.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 1,000.

(13) *Title:* Mark to Market Election for Commodities Dealers and Securities and Commodities Traders.

OMB Number: 1545–1641.

Revenue Procedure Number: Revenue Procedure 99–17 (Revenue Procedure 99–17 is modified by Revenue Procedure 99–49).

Abstract: These revenue procedures prescribe the time and manner for dealers in commodities and traders in securities or commodities to elect to use the mark-to-market method of accounting under sections 475(e) and (f) of the Internal Revenue Code. The collections of information in these revenue procedures are required by the IRS in order to facilitate monitoring taxpayers changing accounting methods resulting from making the elections under Code section 475(e) or (f).

Current Actions: Section 6 of Revenue Procedure 99–17 is superseded by Section 13 of Revenue Procedure 99–49.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

The reporting burden for the collections of information in section 5.01—5.04 of this revenue procedure is as follows:

Estimated Number of Respondents/ Recordkeepers: 1,000.

Estimated Time per Respondent/ Recordkeeper: 30 minutes.

Estimated Total Annual Reporting/ Recordkeeping Hours: 500.

(14) *Title:* Capital Gains, Partnership, Subchapter S, and Trusts Provisions.

OMB Number: 1545–1654.

Regulation Project Number: REG–106527–98 (TD 8902).

Abstract: The regulation relates to sales, or exchanges of interests in partnerships, S corporations, and trusts. The regulations interpret the look-through provision of section 1(h), added by section 311 of the Taxpayer Relief Act of 1997 and amended by sections 5001 and 6005(d) of the Internal Revenue Service Restructuring and Return Act of 1998, and explain the rules relating to the division of the holding period of a partnership interest. The regulations affect partnerships, partners, S corporations, S corporation shareholders, trusts, and trusts beneficiaries.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of currently approved collection.

Affected Public: Businesses or other for-profit organizations, and state, local or tribal governments.

The burden estimates for requirement is reflected in the burden estimates for: Form 1040, U.S. Individual Income Tax Return; Form 1065, U.S. Partnership Return of Income; Form 1041, U.S. Income Tax Return for Estates and Trusts; and Form 1120S, U.S. Income Tax Return for an S Corporation.

(15) *Title:* IRA Required Minimum Distribution Reporting.

OMB Number: 1545–1779.

Notice Number: Notice 2002–27.

Abstract: Notice 2002–27 (Notice 2003–2, Notice 2003–3 & Notice 2009–9) provides guidance with respect to the reporting requirements, that is, data that custodians and trustees of IRAs must furnish IRA owners in those instances where there must be a minimum distribution from an individual retirement arrangement.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 78,000.

Estimated Average Time per Respondent: 15 hours.

Estimated Total Annual Burden Hours: 1,170,000.

(16) *Title:* Dual Consolidated Loss Recapture Events.

OMB Number: 1545–1796.

Regulation Project Number: REG–106879–00 (TD 9084 Final).

Abstract: This document contains final regulations under section 1503(d) regarding the events that require the recapture of dual consolidated losses. These regulations are issued to facilitate compliance by taxpayers with the dual consolidated loss provisions. The regulations generally provide that certain events will not trigger recapture of a dual consolidated loss or payment of the associated interest charge. The regulations provide for the filing of certain agreements in such cases. This document also makes clarifying and conforming changes to the current regulations.

Current Actions: There are no changes being made to this existing regulation.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 30.

Estimated Time per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 60.

(17) *Title:* Domestic Reinvestment and Other Guidance under Section 965.

OMB Number: 1545–1926.

Regulation Project Number: Notice 2005–10, as modified by Notice 2005–38.

Abstract: Notice 2005–10 provides guidance concerning new section 965 of the Internal Revenue Code (Code). It sets forth general principles and specific guidance on domestic reinvestment plans and on investments in the United States described in section 965(b)(4)(B). The Treasury Department and the Internal Revenue Service (IRS) intend to issue additional notices providing guidance concerning section 965, including rules relating to the foreign tax credit and expense allocation, rules for adjusting the calculation of the base period amounts to take into account mergers, acquisitions and spin-offs, and rules regarding controlled groups. The Treasury Department and the IRS expect to issue regulations that incorporate the guidance provided in this and the subsequent notices. Notice 2005–38 primarily addresses the limitations, described in section 965(b)(1), (2), and (3), on the amount of dividends that a corporation that is a U.S. shareholder of a controlled foreign corporation may treat as eligible for the dividends received deduction under section 965(a) (DRD or section 965(a) DRD), including the effects of certain transactions on such limitations.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 25,000.

Estimated Time per Respondent: 150 hours.

Estimated Total Annual Burden Hours: 3,750,000.

(18) *Title:* Revenue Procedure Regarding Extended Period of Limitations for Listed Transaction Situations.

OMB Number: 1545–1940.

Revenue Procedure Number: Revenue Procedure 2005–26.

Abstract: The purpose of this revenue procedure is to alert taxpayers to the enactment of section 6501(c)(10) of the Internal Revenue Code, and to provide guidance for taxpayers subject to the extended period of limitations on assessment under section 6501(c)(10).

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households and Business or other for-profit institutions.

Estimated Number of Respondents: 859

Estimated Time per Respondent: 5 hours.

Estimated Total Annual Burden Hours: 430.

(19) *Title:* Additional First Year Depreciation Deduction.

OMB Number: 1545–2207

Regulation Project Number: Revenue Procedure 2011–26

Abstract: This revenue procedure provides guidance under § 2022(a) of the Small Business Jobs Act of 2010, Public Law 111–240, 124 Stat. 2504 (September 27, 2010) (SBJA), and § 401(a) and (b) of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Public Law 111–312, 124 Stat. 3296 (December 17, 2010) (TRUIRJCA). Sections 2022(a) of the SBJA and 401(a) of the TRUIRJCA amend § 168(k)(2) of the Internal Revenue Code by extending the placed-in-service date for property to qualify for the 50-percent additional first year depreciation deduction. Section 401(b) of the TRUIRJCA amends § 168(k) by adding § 168(k)(5), which temporarily allows a 100-percent additional first year depreciation deduction for certain new property.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit; individuals or households.

Estimated Number of Respondents: 250,000.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 125,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Dated: September 12, 2014.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2014–22321 Filed 9–18–14; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

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No. 182 September 19, 2014

Part II

Department of the Treasury

Internal Revenue Service

26 CFR Part 1

Additional Rules Regarding Hybrid Retirement Plans; Final Rule

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9693]

RIN 1545–BI16

Additional Rules Regarding Hybrid Retirement Plans

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations providing guidance relating to applicable defined benefit plans. Applicable defined benefit plans are defined benefit plans that use a lump sum-based benefit formula, including cash balance plans and pension equity plans, as well as other hybrid retirement plans that have a similar effect. These regulations provide guidance relating to certain provisions that apply to applicable defined benefit plans that were added to the Internal Revenue Code (Code) by the Pension Protection Act of 2006, as amended by the Worker, Retiree, and Employer Recovery Act of 2008. These regulations affect sponsors, administrators, participants, and beneficiaries of these plans.

DATES: *Effective Date:* These regulations are effective on September 19, 2014.

Applicability Date: These regulations generally apply to plan years that begin on or after January 1, 2016. However, see the ''Effective/Applicability Dates'' section in this preamble for additional information regarding the applicability of these regulations.

FOR FURTHER INFORMATION CONTACT: Neil S. Sandhu or Linda S. F. Marshall at (202) 317–6700 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under sections 411(a)(13), 411(b)(1), and 411(b)(5) of the Code. Generally, a defined benefit pension plan must satisfy the minimum vesting standards of section 411(a) and the accrual requirements of section 411(b) in order to be qualified under section 401(a) of the Code. Sections 411(a)(13) and 411(b)(5), which modify the minimum vesting standards of section 411(a) and the accrual requirements of section 411(b), were added to the Code by section 701(b) of the Pension Protection Act of 2006, Public Law 109–280 (120 Stat. 780 (2006)) (PPA '06). Sections 411(a)(13) and 411(b)(5), as well as certain effective date provisions related to these sections, were subsequently amended by the Worker, Retiree, and Employer Recovery Act of 2008, Public Law 110–458 (122 Stat. 5092 (2008)) (WRERA '08).

Section 411(a)(13)(A) provides that an applicable defined benefit plan (which is defined in section 411(a)(13)(C)) is not treated as failing to meet either (i) the requirements of section 411(a)(2) (subject to a special vesting rule in section 411(a)(13)(B) with respect to benefits derived from employer contributions) or (ii) the requirements of section 411(a)(11), 411(c), or 417(e), with respect to accrued benefits derived from employer contributions, merely because the present value of the accrued benefit (or any portion thereof) of any participant is, under the terms of the plan, equal to the amount expressed as the balance of a hypothetical account or as an accumulated percentage of the participant's final average compensation. Section 411(a)(13)(B) requires an applicable defined benefit plan to provide that an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

Under section 411(a)(13)(C)(i), an applicable defined benefit plan is defined as a defined benefit plan under which the accrued benefit (or any portion thereof) of a participant is calculated as the balance of a hypothetical account maintained for the participant or as an accumulated percentage of the participant's final average compensation. Under section 411(a)(13)(C)(ii), the Secretary of the Treasury is to issue regulations which include in the definition of an applicable defined benefit plan any defined benefit plan (or portion of such a plan) which has an effect similar to a plan described in section 411(a)(13)(C)(i).

Section 411(a) requires that a defined benefit plan satisfy the requirements of section 411(b)(1). Section 411(b)(1) provides that a defined benefit plan must satisfy one of the three accrual rules of section 411(b)(1)(A), (B) and (C) with respect to benefits accruing under the plan. The three accrual rules are the 3 percent method of section 411(b)(1)(A), the 133⅓ percent rule of section 411(b)(1)(B), and the fractional rule of section 411(b)(1)(C).

Section 411(b)(1)(B) provides that a defined benefit plan satisfies the requirements of the 133⅓ percent rule for a particular plan year if, under the plan, the accrued benefit payable at the normal retirement age is equal to the normal retirement benefit, and the annual rate at which any individual who is or could be a participant can accrue the retirement benefits payable at normal retirement age under the plan for any later plan year is not more than 133⅓ percent of the annual rate at which the individual can accrue benefits for any plan year beginning on or after such particular plan year and before such later plan year.

For purposes of applying the 133⅓ percent rule, section 411(b)(1)(B)(i) provides that any amendment to the plan which is in effect for the current year is treated as in effect for all other plan years. Section 411(b)(1)(B)(ii) provides that any change in an accrual rate which does not apply to any individual who is or could be a participant in the current plan year is disregarded. Section 411(b)(1)(B)(iii) provides that the fact that benefits under the plan may be payable to certain participants before normal retirement age is disregarded. Section 411(b)(1)(B)(iv) provides that Social Security benefits and all other relevant factors used to compute benefits are treated as remaining constant as of the current plan year for all years after the current year.

Section 411(b)(1)(G) provides that a defined benefit plan fails to comply with section 411(b) if the participant's accrued benefit is reduced on account of any increase in the participant's age or service. Section 411(b)(1)(G) contains a limited exception to this requirement for any social security supplement.

Section 411(b)(1)(H)(i) provides that a defined benefit plan fails to comply with section 411(b) if, under the plan, an employee's benefit accrual is ceased, or the rate of an employee's benefit accrual is reduced, because of the attainment of any age. Section 411(b)(5), which was added to the Code by section 701(b)(1) of PPA '06, provides additional rules related to section 411(b)(1)(H)(i). Section 411(b)(5)(A) generally provides that a plan is not treated as failing to meet the requirements of section 411(b)(1)(H)(i) if a participant's accrued benefit, as determined as of any date under the terms of the plan, would be equal to or greater than that of any similarly situated, younger individual who is or could be a participant. For this purpose, section 411(b)(5)(A)(iv) provides that the accrued benefit may, under the terms of the plan, be expressed as an annuity payable at normal retirement age, the balance of a hypothetical account, or the current value of the accumulated percentage of the employee's final average compensation. Section 411(b)(5)(G) provides that, for purposes of section 411(b)(5), any reference to the accrued benefit of a

participant refers to the participant's benefit accrued to date.

Section 411(b)(5)(B) imposes certain requirements on an applicable defined benefit plan in order for the plan to satisfy section 411(b)(1)(H). Section 411(b)(5)(B)(i) provides that such a plan is treated as failing to meet the requirements of section 411(b)(1)(H) if the terms of the plan provide for an interest credit (or an equivalent amount) for any plan year at a rate that is greater than a market rate of return. Under section 411(b)(5)(B)(i)(I), a plan is not treated as having an above-market rate merely because the plan provides for a reasonable minimum guaranteed rate of return or for a rate of return that is equal to the greater of a fixed or variable rate of return. Section 411(b)(5)(B)(i)(II) provides that an applicable defined benefit plan is treated as failing to meet the requirements of section 411(b)(1)(H) unless the plan provides that an interest credit (or an equivalent amount) of less than zero can in no event result in the account balance or similar amount being less than the aggregate amount of contributions credited to the account. Section 411(b)(5)(B)(i)(III) authorizes the Secretary of the Treasury to provide by regulation for rules governing the calculation of a market rate of return for purposes of section 411(b)(5)(B)(i)(I) and for permissible methods of crediting interest to the account (including fixed or variable interest rates) resulting in effective rates of return meeting the requirements of section 411(b)(5)(B)(i)(I).

Sections 411(b)(5)(B)(ii), 411(b)(5)(B)(iii) and 411(b)(5)(B)(iv) contain additional requirements that apply if, after June 29, 2005, an applicable plan amendment is adopted. Section 411(b)(5)(B)(v)(I) defines an applicable plan amendment as an amendment to a defined benefit plan which has the effect of converting the plan to an applicable defined benefit plan. Under section 411(b)(5)(B)(ii), if, after June 29, 2005, an applicable plan amendment is adopted, the plan is treated as failing to meet the requirements of section 411(b)(1)(H) unless the requirements of section 411(b)(5)(B)(iii) are met with respect to each individual who was a participant in the plan immediately before the adoption of the amendment. Section 411(b)(5)(B)(iii) specifies that, subject to section 411(b)(5)(B)(iv), the requirements of section 411(b)(5)(B)(iii) are met with respect to any participant if the accrued benefit of the participant under the terms of the plan as in effect after the amendment is not less than the sum of: (I) The participant's accrued benefit for years of service before the effective date of the amendment, determined under the terms of the plan as in effect before the amendment; plus (II) the participant's accrued benefit for years of service after the effective date of the amendment, determined under the terms of the plan as in effect after the amendment. Section 411(b)(5)(B)(iv) provides that, for purposes of section 411(b)(5)(B)(iii)(I), the plan must credit the participant's account or similar amount with the amount of any early retirement benefit or retirement-type subsidy for the plan year in which the participant retires if, as of such time, the participant has met the age, years of service, and other requirements under the plan for entitlement to such benefit or subsidy.

Section 411(b)(5)(B)(v) sets forth certain provisions related to an applicable plan amendment. Section 411(b)(5)(B)(v)(II) provides that if the benefits under two or more defined benefit plans of an employer are coordinated in such a manner as to have the effect of adoption of an applicable plan amendment, the plan sponsor is treated as having adopted an applicable plan amendment as of the date the coordination begins. Section 411(b)(5)(B)(v)(III) directs the Secretary of the Treasury to issue regulations to prevent the avoidance of the purposes of section 411(b)(5)(B) through the use of two or more plan amendments rather than a single amendment.

Section 411(b)(5)(B)(vi) provides special rules for determining benefits upon termination of an applicable defined benefit plan. Under section 411(b)(5)(B)(vi)(I), an applicable defined benefit plan is not treated as satisfying the requirements of section 411(b)(5)(B)(i) (regarding permissible interest crediting rates) unless the plan provides that, upon plan termination, if the interest crediting rate under the plan is a variable rate, the rate of interest used to determine accrued benefits under the plan is equal to the average of the rates of interest used under the plan during the 5-year period ending on the termination date. In addition, under section 411(b)(5)(B)(vi)(II), the plan must provide that, upon plan termination, the interest rate and mortality table used to determine the amount of any benefit under the plan payable in the form of an annuity payable at normal retirement age is the rate and table specified under the plan for this purpose as of the termination date, except that if the interest rate is a variable rate, the rate used is the average of the rates used under the plan during the 5-year period ending on the termination date.

Section 411(b)(5)(C) provides that a plan is not treated as failing to meet the requirements of section 411(b)(1)(H)(i) solely because the plan provides offsets against benefits under the plan to the extent the offsets are otherwise allowable in applying the requirements of section 401(a). Section 411(b)(5)(D) provides that a plan is not treated as failing to meet the requirements of section 411(b)(1)(H) solely because the plan provides a disparity in contributions or benefits with respect to which the requirements of section 401(l) (relating to permitted disparity for Social Security benefits and related matters) are met.

Section 411(b)(5)(E) provides that a plan is not treated as failing to meet the requirements of section 411(b)(1)(H) solely because the plan provides for indexing of accrued benefits under the plan. Under section 411(b)(5)(E)(iii), indexing means the periodic adjustment of the accrued benefit by means of the application of a recognized investment index or methodology. Section 411(b)(5)(E)(ii) requires that, except in the case of a variable annuity, the indexing not result in a smaller benefit than the accrued benefit determined without regard to the indexing.

Except to the extent permitted under section 411(d)(6) (or under another statutory provision, including section 1107 of PPA '06), section 411(d)(6) prohibits a plan amendment that decreases a participant's accrued benefits or that has the effect of eliminating or reducing an early retirement benefit or retirement-type subsidy, or eliminating an optional form of benefit, with respect to benefits attributable to service before the amendment. However, an amendment that eliminates or decreases benefits that have not yet accrued does not violate section 411(d)(6), provided that the amendment is adopted and effective before the benefits accrue.

Section 701(a) of PPA '06 added provisions to the Employee Retirement Income Security Act of 1974, Public Law 93–406 (88 Stat. 829 (1974)), as amended (ERISA), that are parallel to sections 411(a)(13) and 411(b)(5) of the Code. The guidance provided in these regulations with respect to sections 411(a)(13) and 411(b)(5) of the Code also apply for purposes of the parallel amendments to ERISA made by section 701(a) of PPA '06, and the guidance provided in these regulations with respect to section 411(b)(1) of the Code

also apply for purposes of section 204(b)(1) of ERISA.[1]

Section 701(c) of PPA '06 added provisions to the Age Discrimination in Employment Act of 1967, Public Law 90–202 (81 Stat. 602 (1967)), that are parallel to section 411(b)(5) of the Code. Executive Order 12067 requires all Federal departments and agencies to advise and offer to consult with the Equal Employment Opportunity Commission (EEOC) during the development of any proposed rules, regulations, policies, procedures, or orders concerning equal employment opportunity. The Treasury Department and the IRS have consulted with the EEOC prior to the issuance of these regulations.

Section 701(d) of PPA '06 provides that nothing in the amendments made by section 701 should be construed to create an inference concerning the treatment of applicable defined benefit plans or conversions of plans into applicable defined benefit plans under section 411(b)(1)(H), or concerning the determination of whether an applicable defined benefit plan fails to meet the requirements of section 411(a)(2), 411(c) or 417(e), as in effect before such amendments, solely because the present value of the accrued benefit (or any portion thereof) of any participant is, under the terms of the plan, equal to the amount expressed as the balance of a hypothetical account or as an accumulated percentage of the participant's final average compensation.

Section 701(e) of PPA '06 sets forth the effective date provisions with respect to amendments made by section 701 of PPA '06. Section 701(e)(1) specifies that the amendments made by section 701 generally apply to periods beginning on or after June 29, 2005. Thus, the age discrimination safe harbors under section 411(b)(5)(A) and section 411(b)(5)(E) are effective for periods beginning on or after June 29, 2005. Section 701(e)(2) provides that the special present value rules of section 411(a)(13)(A) are effective for distributions made after August 17, 2006 (the date PPA '06 was enacted).

Under section 701(e) of PPA '06, the 3-year vesting rule under section 411(a)(13)(B) is generally effective for years beginning after December 31, 2007, for a plan in existence on June 29, 2005, while, pursuant to the amendments made by section 107(c) of WRERA '08, the rule is generally effective for plan years ending on or after June 29, 2005, for a plan not in existence on June 29, 2005. The market rate of return limitation under section 411(b)(5)(B)(i) is generally effective for years beginning after December 31, 2007, for a plan in existence on June 29, 2005, while the limitation is generally effective for periods beginning on or after June 29, 2005, for a plan not in existence on June 29, 2005. Section 701(e)(4) of PPA '06 contains special effective date provisions for collectively bargained plans that modify these effective dates.

Under section 701(e)(5) of PPA '06, as amended by WRERA '08, sections 411(b)(5)(B)(ii), (iii) and (iv) apply to a conversion amendment that is adopted on or after, and takes effect on or after, June 29, 2005.

Under section 701(e)(6) of PPA '06, as added by WRERA '08, the 3-year vesting rule under section 411(a)(13)(B) does not apply to a participant who does not have an hour of service after the date the 3-year vesting rule would otherwise be effective.

Section 702 of PPA '06 provides for regulations to be prescribed by August 16, 2007, addressing the application of rules set forth in section 701 of PPA '06 in the case of a conversion of a defined benefit pension plan to an applicable defined benefit plan that is made with respect to a group of employees who become employees by reason of a merger, acquisition, or similar transaction.

Section 1.411(a)–7(a)(1) of the Income Tax Regulations provides that, for purposes of section 411 and the regulations under section 411, the accrued benefit of a participant under a defined benefit plan is either (A) the accrued benefit determined under the plan if the plan provides for an accrued benefit in the form of an annual benefit commencing at normal retirement age, or (B) an annual benefit commencing at normal retirement age which is the actuarial equivalent (determined under section 411(c)(3) and § 1.411(c)–1)) of the accrued benefit under the plan if the plan does not provide for an accrued benefit in the form of an annual benefit commencing at normal retirement age.

Section 1.411(b)–1(a)(1) provides that a defined benefit plan is not a qualified plan unless the method provided by the plan for determining accrued benefits satisfies at least one of the alternative methods in § 1.411(b)–1(b) for determining accrued benefits with respect to all active participants under the plan. Section 1.411(b)–1(b)(2)(i) provides that a defined benefit plan satisfies the 133⅓ percent rule of section 411(b)(1)(B) for a particular plan year if (A) under the plan the accrued benefit payable at the normal retirement age (determined under the plan) is equal to the normal retirement benefit (determined under the plan), and (B) the annual rate at which any individual who is or could be a participant can accrue the retirement benefits payable at normal retirement age under the plan for any later plan year cannot be more than 133⅓ percent of the annual rate at which the participant can accrue benefits for any plan year beginning on or after such particular plan year and before such later plan year. Section 1.411(b)–1(b)(2)(ii)(A) through (D) sets forth a series of rules that correspond to the rules of section 411(b)(1)(B)(i) through (iv). Section 1.411(b)–1(b)(2)(ii)(D) provides that, for purposes of the 133⅓ percent rule, for any plan year, social security benefits and all relevant factors used to compute benefits, for example, the consumer price index, are treated as remaining constant as of the beginning of the current plan year for all subsequent plan years.

Final regulations (TD 9505) under sections 411(a)(13) and 411(b)(5) (2010 final regulations) were published by the Treasury Department and the IRS in the **Federal Register** on October 19, 2010 (75 FR 64123).

Proposed regulations (REG–132554–08) under sections 411(a)(13), 411(b)(1), and 411(b)(5) (2010 proposed regulations) were also published by the Treasury Department and the IRS in the **Federal Register** on October 19, 2010 (75 FR 64197). The 2010 proposed regulations address certain issues under sections 411(a)(13) and 411(b)(5) that were not addressed in the 2010 final regulations. The 2010 proposed regulations also address one issue under the 133⅓ percent rule of section 411(b)(1)(B) for defined benefit plans that adjust benefits using a variable rate that could be negative. The Treasury Department and the IRS received written comments on the 2010 proposed regulations, and a public hearing was held on January 26, 2011.

Notice 2011–85 (2011–44 IRB 605 (October 31, 2011)), (see § 601.601(d)(2)(ii)(*b*) of this chapter), announced delayed effective/applicability dates with respect to certain provisions in the hybrid plan regulations. In particular, Notice 2011–85 provided that the provisions to be adopted under the regulations that finalize the 2010 proposed regulations would apply for plan years that begin on or after the date specified in those regulations, which would not be earlier than January 1, 2013. Notice 2011–85 also provided that the Treasury

[1] Under section 101 of Reorganization Plan No. 4 of 1978 (43 FR 47713), the Secretary of the Treasury has interpretive jurisdiction over the subject matter addressed by these regulations for purposes of ERISA, as well as the Code.

Department and the IRS intended to amend the hybrid plan regulations to postpone the effective/applicability date of § 1.411(b)(5)–1(d)(1)(iii), (d)(1)(vi) and (d)(6)(i) (the provisions that provide that the regulations set forth the list of the interest crediting rates and combinations of rates that satisfy the requirements of section 411(b)(5)(B)(i)) to match the effective/applicability date of the new provisions in the regulations. Notice 2011–85 further provided that, when the 2010 proposed regulations are finalized, it was expected that relief from the requirements of section 411(d)(6) would be granted for a plan amendment that eliminates or reduces a section 411(d)(6) protected benefit, provided that the amendment is adopted by the last day of the first plan year preceding the plan year for which the 2010 proposed regulations, once finalized, apply to the plan, and the elimination or reduction is made only to the extent necessary to enable the plan to meet the requirements of section 411(b)(5). In addition, Notice 2011–85 extended the deadline for amending cash balance and other applicable defined benefit plans, within the meaning of section 411(a)(13)(C), to meet the requirements of section 411(a)(13) (other than section 411(a)(13)(A)) and section 411(b)(5), relating to vesting and other special rules applicable to these plans. Under Notice 2011–85, the deadline for these amendments was the last day of the first plan year preceding the plan year for which the 2010 proposed regulations, once finalized, apply to the plan.

Notice 2012–61 (2012–42 IRB 479 (October 15, 2012)), (see § 601.601(d)(2)(ii)(*b*) of this chapter), announced that the regulations described in Notice 2011–85 would not be effective for plan years beginning before January 1, 2014.

After consideration of the comments received, the provisions in the 2010 proposed regulations are adopted by this Treasury decision, subject to a number of changes that are summarized in this preamble. In addition, the Treasury Department and the IRS are issuing proposed regulations that would permit a plan with a noncompliant interest crediting rate to be amended so that its interest crediting rate complies with the market rate of return rules without violating the section 411(d)(6) prohibition on a plan amendment reducing a participant's accrued benefit. These proposed regulations are being issued at the same time as these final regulations.

Explanation of Provisions

Overview

In general, these regulations provide guidance with respect to certain issues under sections 411(a)(13) and 411(b)(5) that are not addressed in the 2010 final regulations and make certain other changes to the final regulations under sections 411(a)(13) and 411(b)(5). In addition, these regulations provide guidance with respect to one issue under the 133⅓ percent rule of section 411(b)(1)(B) for defined benefit plans that adjust benefits using a variable rate that could be negative.

I. Section 411(a)(13): Scope of Relief of Section 411(a)(13)(A)

A. Formulas To Which Relief Applies

Pursuant to the relief of section 411(a)(13)(A), the 2010 final regulations provide that certain rules otherwise applicable to benefits under a defined benefit plan are not violated solely because certain benefits determined under a lump sum-based benefit formula are based on the current lump sum amount under that formula. The 2010 final regulations define a lump sum-based benefit formula as a benefit formula used to determine all or any part of a participant's accumulated benefit under which the accumulated benefit provided under the formula is expressed as the current balance of a hypothetical account maintained for the participant (''cash balance'' formula) or as the current value of an accumulated percentage of the participant's final average compensation (''pension equity plan'' or ''PEP'' formula).

For plan years that begin on or after January 1, 2016 (or an earlier date as elected by the taxpayer), these regulations expand the definition of PEP formula to include a benefit formula that is expressed as a current single-sum dollar amount equal to a percentage of the participant's *highest* average compensation (with a permitted lookback period for determining highest average compensation, such as highest 5 out of the last 10 years).

In addition, for plan years that begin on or after January 1, 2016, these regulations provide that a benefit formula does not constitute a lump sum-based benefit formula unless a distribution of the benefits under that formula in the form of a single-sum payment equals the accumulated benefit under that formula (except to the extent the single-sum payment is greater to satisfy the requirements of section 411(d)(6)).

B. Protections With Respect to Current Account Balance or Current Value

The relief of section 411(a)(13)(A) generally permits a plan to treat the accumulated benefit under a cash balance formula (''cash balance account'') or the accumulated benefit under a PEP formula (''PEP accumulation'') as the present value of the portion of the accrued benefit determined under the cash balance or PEP formula. The 2010 proposed regulations contained three requirements that applied to the cash balance account or PEP accumulation. These requirements were structured as conditions on the availability of the relief of section 411(a)(13)(A). A number of commenters objected to treating these requirements as conditions for this relief. In response to those comments, the structure of the regulations under section 411(a)(13)(A) has been revised to clarify that two of the requirements are only intended to provide the same types of protections to the accumulated benefit under a cash balance formula and under a PEP formula as are afforded to the accrued benefit.

For example, these final regulations provide that the relief of section 411(a)(13) does not override the requirement for a plan that, with respect to a participant with an annuity starting date after normal retirement age, the plan either provide an actuarial increase after normal retirement age or satisfy the requirements for suspension of benefits under section 411(a)(3)(B). Accordingly, with respect to such a participant, a plan with a cash balance or PEP formula violates the requirements of section 411(a) if the cash balance account or PEP accumulation is not increased sufficiently to satisfy the requirements of section 411(a)(2) for distributions commencing after normal retirement age, unless the plan suspends benefits in accordance with section 411(a)(3)(B).

Like the 2010 proposed regulations, these final regulations provide that the cash balance account or PEP accumulation can only be reduced for certain limited reasons, which generally correspond to the limited reasons for which the accrued benefit can be reduced. Several commenters on the 2010 proposed regulations suggested that it was unclear whether the restrictions on reductions as applied to PEP formulas were intended to cover only reductions that reduced the accumulated percentage that applies to the participant's final average compensation or whether the restrictions were also intended to disallow reductions that were a result of decreases in the participant's final

average compensation. In response to those comments, the regulations clarify that a reduction in the PEP accumulation is permitted to the extent that it results from a decrease in the participant's final average compensation or from an increase in the integration level (in the case of a formula that is integrated with Social Security). The regulations also contain a provision allowing the Commissioner to add to the list of permitted reductions through guidance of general applicability.

Under the 2010 proposed regulations, a cash balance formula or PEP formula would have had to provide that the portion of the participant's accrued benefit that is determined under that formula must be actuarially equivalent (using reasonable actuarial assumptions) to the cash balance account or PEP accumulation upon attainment of normal retirement age in order to apply the relief of section 411(a)(13)(A). Under these final regulations, a cash balance formula or PEP formula is treated as a lump sum-based benefit formula to which the relief of section 411(a)(13)(A) applies if the portion of the participant's accrued benefit that is determined under that formula is actuarially equivalent (using reasonable actuarial assumptions) to the cash balance account or PEP accumulation either upon attainment of normal retirement age or at the annuity starting date for a distribution with respect to that portion.

If a formula is not a lump sum-based benefit formula, the plan must satisfy the rules that otherwise apply for purposes of determining benefits under a defined benefit plan, such as applying the minimum present value requirements of section 417(e) to the portion of the accrued benefit determined under that formula in order to determine the amount of a single-sum distribution option.

C. Subsidies and Benefits That are Less Than the Actuarial Equivalent of the Cash Balance Account or PEP Accumulation

The 2010 proposed regulations provided that the relief of section 411(a)(13)(A) applies to an optional form of benefit that is determined as of the annuity starting date as the actuarial equivalent, using reasonable actuarial assumptions, of the cash balance account or PEP accumulation. In response to comments that subsidized benefits should be permissible, the rules in the regulations under section 411(a)(13) have been revised to clarify that the relief of section 411(a)(13)(A) also applies to a subsidized optional form of benefit under a lump sum-based benefit formula, including an early retirement subsidy or a subsidized survivor portion of a qualified joint and survivor annuity. In particular, these final regulations provide that, with respect to benefits under a lump sum-based benefit formula, if an optional form of benefit is payable in an amount that is greater than the actuarial equivalent, determined using reasonable actuarial assumptions, of the cash balance account or PEP accumulation, then the plan satisfies the requirements of section 411(a)(2), 411(a)(11), 411(c) and 417(e) with respect to the amount of that optional form of benefit.[2]

By contrast, section 411(a)(13)(A) does not provide relief with respect to an optional form of benefit that is less than the actuarial equivalent of the cash balance account or PEP accumulation. Thus, the final regulations provide that if an optional form of benefit is not at least the actuarial equivalent, using reasonable actuarial assumptions, of the cash balance account or PEP accumulation, then the relief under section 411(a)(13)(A) does not apply in determining whether the optional form of benefit is the actuarial equivalent of the portion of the accrued benefit determined under the cash balance or PEP formula. As a result, payment of that optional form of benefit must satisfy the rules applicable to payment of the accrued benefit generally under a defined benefit plan (without regard to the special rules of section 411(a)(13)(A) and the regulations), including the requirements of section 411(a)(2) and, for optional forms subject to the minimum present value requirements of section 417(e)(3), those minimum present value requirements.

D. Clarifications Relating to Statutory Hybrid Formulas With an Effect Similar to a Lump Sum-Based Benefit Formula

Under the 2010 final regulations, a formula that is not a lump sum-based benefit formula that has an effect similar to a lump sum-based benefit formula is nevertheless a statutory hybrid benefit formula. As a result, such a formula is subject to the 3-year vesting rule of section 411(a)(13)(B) and the rules of section 411(b)(5), including the market rate of return and conversion protection requirements. However, because it is not a lump sum-based benefit formula, such a formula is not eligible for the relief of section 411(a)(13)(A). In general, a defined benefit formula that is not a lump sum-based benefit formula has an effect similar to a lump sum-based benefit formula if the formula provides that a participant's accumulated benefit is expressed as a benefit that includes the right to adjustments for a future period and the total dollar amount of those adjustments is reasonably expected to be smaller for the participant than for a similarly situated, younger individual who is or could be a participant in the plan.

These regulations clarify certain of the rules with respect to the determination as to whether a formula constitutes a formula with an effect similar to a lump sum-based benefit formula. In particular, these regulations clarify that the right to adjustments for a future period is broadly defined to mean the right to any change in the dollar amount of benefits over time, regardless of whether those adjustments are denominated as interest credits. Thus, for example, an increase in the dollar amount of benefits over time (such as an actuarial increase or the unwinding of an actuarial reduction for early retirement) is treated as an adjustment.

However, this broad definition does not cause a defined benefit formula to be treated as having an effect similar to a lump sum-based benefit formula with respect to a participant merely because the formula provides for a reduction in the benefit payable at early retirement due to early commencement (with the result that the benefit payable at normal retirement age is greater than the benefit payable at early retirement), provided that the benefit payable at normal retirement age to the participant cannot be less than the benefit payable at normal retirement age to any similarly situated, younger individual who is or could be a participant in the plan. This exception has the effect of excluding traditional defined benefit formulas (and other formulas that provide for mere actuarial reduction for early commencement) from treatment as a formula with an effect similar to a lump sum-based benefit formula, notwithstanding the treatment of actuarial increases in benefits over time as adjustments.

Under the 2010 final regulations, a variable annuity benefit formula was defined as any benefit formula under a defined benefit plan which provides that the amount payable is periodically adjusted by reference to the difference between the rate of return on plan assets (or specified market indices) and a specified assumed interest rate. In addition, the 2010 final regulations contained a special rule that provided

[2] As set forth later in this preamble, the regulations under section 411(b)(5) provide rules under the age discrimination safe harbor that limit the amount of the subsidized early retirement benefit so that it does not exceed the benefit available to a similarly situated, older participant with the same cash balance account or PEP accumulation who is currently at normal retirement age.

an exception from treatment as a formula with an effect similar to a lump sum-based benefit formula for a variable annuity benefit formula with an assumed interest rate of 5 percent or higher.

In order to clarify this exception, both the definition and the exception have been revised under these regulations. In particular, the definition of variable annuity benefit formula has been broadened. Thus, these regulations provide that a variable annuity benefit formula means any benefit formula under a defined benefit plan which provides that the amount payable is periodically adjusted by reference to the difference between a rate of return (not limited to the rate of return on plan assets or specified market indices) and a specified assumed interest rate. The exception has been revised so that it is available in the case of any variable annuity benefit formula that adjusts the amounts payable by reference to any rate of return that is permissible as an interest crediting rate under the regulations, including the rate of return on plan assets (or a subset of plan assets), as described in section III.C.2 of this preamble, or the rate of return on an annuity contract for an employee issued by an insurance company licensed under the laws of a State. The rule in the regulations that provides that this exception is only available if the specified assumed interest rate is 5 percent or higher has been retained.

A variable annuity benefit formula that does not fall within the exception must be tested to determine whether it has an effect similar to a lump sum-based benefit formula. Such a formula is not a statutory hybrid benefit formula if the specified assumed interest rate is high enough in relation to the reasonable expectation of the rate of return to which it is compared, such that the adjustments under the formula are not reasonably expected to be positive. However, if the specified assumed interest rate is too high in relation to the reasonable expectation of the rate of return to which it is compared, a variable annuity benefit formula risks violating section 411(b)(1)(G).

E. Formulas That Express the Accumulated Benefit as a Single-Sum Dollar Amount at Normal Retirement Age

As discussed earlier in this preamble, the 2010 final regulations define a lump sum-based benefit formula as a benefit formula used to determine all or any part of a participant's accumulated benefit under which the accumulated benefit provided under the formula is expressed as the current balance of a hypothetical account maintained for the participant or as the current value of an accumulated percentage of the participant's final average compensation. Under this rule, a benefit formula is a lump sum-based benefit formula if it expresses the accumulated benefit as a current single-sum dollar amount, regardless of whether interest credits are provided.

With respect to a plan that does not provide interest credits, there may be a question as to whether the accumulated benefit is a current single-sum dollar amount or is a single-sum dollar amount at normal retirement age. Accordingly, the 2010 proposed regulations included a comment request with respect to whether a defined benefit plan that expresses the participant's accumulated benefit as a current single-sum dollar amount and that does not provide for interest credits should be excluded from the definition of a statutory hybrid plan. Commenters suggested that a benefit formula that expresses the participant's benefit as a current single-sum dollar amount (for example, a PEP formula) should be treated as a statutory hybrid benefit formula, regardless of whether interest credits are provided. Because the statutory language with respect to a cash balance formula and a PEP formula does not specify that interest credits must be provided, the Treasury Department and the IRS agree with this recommendation. As a result, the definition of lump sum-based benefit formula continues not to require that interest credits be provided.

Commenters also recommended that plans that express the accumulated benefit as a single-sum dollar amount at normal retirement age, rather than as a current single-sum dollar amount, should not be treated as statutory hybrid plans. The Treasury Department and the IRS generally agree with this recommendation. Accordingly, the definition of lump sum-based benefit formula continues to require that the benefit be expressed as a current single-sum dollar amount. Thus, a benefit formula that expresses the accumulated benefit as a single-sum dollar amount at normal retirement age is not a statutory hybrid benefit formula unless the formula includes the right to adjustments such that the formula has an effect similar to a lump sum-based benefit formula pursuant to § 1.411(a)(13)–1(d)(4)(ii) (see section I.D of this preamble).

The Treasury Department and the IRS believe that this treatment under the regulations is consistent with the intent of Congress to treat as statutory hybrid plans generally only those defined benefit plans that either express the accumulated benefit as a current single-sum dollar amount or that provide for adjustments such that the participant's benefit at normal retirement age is less than that of a similarly situated, younger individual who is or could be a participant. This is because a defined benefit plan that expresses the accumulated benefit as a single-sum dollar amount at normal retirement age (and that does not provide a larger benefit to the participant than to a similarly situated, older participant) is identical to a traditional defined benefit plan for age discrimination purposes, and differs in substance from a traditional defined benefit plan only because the benefit at normal retirement age is expressed as a single-sum dollar amount rather than as an annuity.

Under these rules, a defined benefit plan that expresses the accumulated benefit as a single-sum dollar amount can be designed to express that accumulated benefit as either a current single-sum dollar amount or a single-sum dollar amount at normal retirement age. In the former case, the formula would be a lump sum-based benefit formula, and therefore would be eligible for the relief of section 411(a)(13)(A) (and subject to the rules of sections 411(a)(13)(B) and 411(b)(5)(B)). In the latter case, the formula would not be a lump sum-based benefit formula, and therefore would not be eligible for the relief of section 411(a)(13)(A).

Because a formula that expresses the accumulated benefit as a single-sum dollar amount at normal retirement age is not eligible for the relief of section 411(a)(13)(A), the accrued benefit under such a formula is often determined under the terms of the plan by applying section 417(e) factors to the single-sum dollar amount. The rules of sections 411(a)(13)(B) and 411(b)(5)(B) would generally not apply to such a formula (unless it is treated under the regulations as having an effect similar to a lump sum-based benefit formula). Instead, all of the rules that apply to defined benefit formulas that are not statutory hybrid benefit formulas would apply to such a formula. For example, if a defined benefit plan is amended to change the benefit formula under the plan to a formula that expresses the accumulated benefit as a single-sum dollar amount at normal retirement age (and the formula does not fall within the definition of a benefit formula with an effect similar to a lump sum-based benefit formula), the amendment is not subject to the rules that apply with respect to a conversion amendment under section 411(b)(5)(B)(ii). Furthermore, the mere existence of an

early retirement subsidy that meets applicable rules would not affect this determination.

II. Section 411(b)(1): Special Rules With Respect to Variable Interest Crediting Rates

The 2010 proposed regulations contain a special rule regarding the application of the 133⅓ percent rule of section 411(b)(1)(B) [3] to a statutory hybrid plan that adjusts benefits using a variable interest crediting rate that can potentially be negative in any given year. Under this rule, for plan years that begin on or after January 1, 2012, a plan that determines any portion of the participant's accrued benefit pursuant to a statutory hybrid benefit formula (as defined in § 1.411(a)(13)–1(d)(4)) with a variable interest crediting rate that was negative for the prior plan year would not be treated as failing to satisfy the requirements of the 133⅓ percent rule for the current plan year merely because the section 411(b)(1)(B) backloading calculation is performed assuming that the variable rate is zero for the current plan year and all future plan years.

One commenter on the 2010 proposed regulations suggested that a special rule under the 133⅓ percent rule of section 411(b)(1)(B) should not be provided for variable interest crediting rates that can potentially be negative. Other commenters suggested that the interest crediting rate to be used for purposes of the 133⅓ percent rule in the case of a variable interest crediting rate that can potentially be negative should be assumed to be a reasonable rate of return (such as, for example a long-term average of the rate of return), regardless of the actual rate of return provided as of the current year. However, this would be inconsistent with section 411(b)(1)(B)(iv), which provides that for purposes of the 133⅓ percent rule all ''relevant factors used to compute benefits shall be treated as remaining constant as of the current year for all years after the current year.''

The special rule in the 2010 proposed regulations provides for the use of an assumed interest crediting rate other than the interest crediting rate used to compute benefits as of the current year only to the extent necessary to permit a statutory hybrid plan to use an interest crediting rate that can potentially be negative. Without such a rule, a statutory hybrid plan that uses a variable interest crediting rate would not satisfy the 133⅓ percent rule of section 411(b)(1)(B) if the variable interest crediting rate as of the current year is negative, even if the plan does not provide for principal credits (sometimes referred to as pay credits) that are an increasing percentage of pay with increasing years or service. The preservation of capital rule of section 411(b)(5)(B)(i)(II) provides that interest crediting rates under a statutory hybrid plan cannot result in the benefit provided being less than the sum of principal credits. Thus, Congress contemplated a statutory hybrid plan's use of a variable interest crediting rate that can potentially be negative. Accordingly, the special rule is finalized as proposed, except that the rule has been modified to permit a taxpayer to elect to apply it at an earlier date (so that the rule is applicable for plan years that begin on or after January 1, 2012, or an earlier date as elected by the taxpayer).

III. Section 411(b)(5): Special Age Discrimination Rules, Including Rules With Respect to the Market Rate of Return Limitation

A. Section 411(b)(5) Age Discrimination Safe Harbor

Pursuant to section 411(b)(5)(A), the 2010 final regulations provide that a plan is not treated as failing to meet the age discrimination requirements of section 411(b)(1)(H)(i) with respect to an individual who is or could be a participant if, as of any date, the accumulated benefit of the individual would not be less than the accumulated benefit of any similarly situated, younger individual who is or could be a participant. In general, this safe harbor is available only if the accumulated benefits being compared are expressed under only one type of formula (that is, cash balance formulas, PEP formulas, or annuities payable at normal retirement age). These regulations clarify that the age discrimination safe harbor for cash balance formulas and PEP formulas under section 411(b)(5) applies only for formulas that are lump sum-based benefit formulas.[4]

Under the 2010 final regulations, the safe harbor is available with respect to a participant in the case of a plan that determines some or all participants' benefits as the sum-of, greater-of, or choice-of two or more types of formulas only if the participant's benefit under the plan is not less valuable than the benefit of a similarly situated, younger individual who is or could be a participant in the plan. In order to clarify that certain limitations on benefits (such as those that are required in order to comply with section 415) would not necessarily preclude a plan from satisfying the age discrimination safe harbor, these regulations extend the application of the safe harbor so that the safe harbor is also available to a plan that expresses a participant's accumulated benefit as the lesser of benefits under two or more formulas. In addition, the regulations under section 411(a)(13) have been revised to clarify that, in the case of lesser-of formulas, the relief of section 411(a)(13)(A) applies only to benefits determined under a cash balance or PEP formula, and to provide for a special rule with respect to the application of the limitation on benefits under section 415(b) to a lump sum-based benefit formula.

Section 411(b)(5)(A)(iii) provides for a disregard of the subsidized portion of an early retirement benefit for purposes of the section 411(b)(5) age discrimination safe harbor. This is similar to the disregard of the subsidized portion of an early retirement benefit that applies under section 411(b)(1)(H)(iv) for purposes of the general age discrimination test of section 411(b)(1)(H). The 2010 final regulations provided certain guidance as to what constitutes the subsidized portion of an early retirement benefit for purposes of the section 411(b)(5) age discrimination safe harbor. These final regulations revise and clarify such guidance. In particular, in order to facilitate phased retirement, these final regulations remove the requirement that a subsidized portion of an early retirement benefit must be contingent on a participant's severance from employment. In addition, these final regulations provide that an early retirement benefit includes a subsidized portion only if it provides a higher actuarial present value on account of commencement before normal retirement age. These final regulations also provide for a disregard of the subsidized portion of an early retirement benefit for purposes of the special age discrimination test under section 411(b)(5)(E) that applies for indexed benefits.

However, these final regulations provide that, for plan years that begin on or after January 1, 2016, if the annual benefit payable before normal retirement age is greater for a participant than the annual benefit under the corresponding form of benefit for any similarly situated, older individual who

[3] The 133 1/3 percent rule is the accrual rule most commonly used by statutory hybrid plans to satisfy the accrual rules of section 411(b)(1).

[4] Because the definition of lump sum-based benefit formula requires the benefit to be expressed under the terms of the plan as a cash balance formula or PEP formula, the existing language in these safe harbors that the benefit be expressed under the terms of the plan as a cash balance formula or PEP formula has been eliminated as redundant.

is or could be a participant and who is currently at or before normal retirement age, then that excess is not part of the subsidized portion of an early retirement benefit and, accordingly, is not disregarded for age discrimination purposes. Thus, if more than a subsidized portion of an early retirement benefit is provided to a participant, that additional benefit is not disregarded for purposes of the section 411(b)(5) age discrimination safe harbor (and, as a result, the safe harbor typically would not be satisfied). For purposes of determining whether the annual benefit payable before normal retirement age is greater for a participant than the annual benefit under the corresponding form of benefit for any similarly situated, older individual who is or could be a participant, social security leveling options and social security supplements are disregarded. In addition, a plan is not treated as providing a greater annual benefit to a participant than to a similarly situated, older individual who is or could be a participant merely because the reduction (based on actuarial equivalence, using reasonable actuarial assumptions) in the amount of an annuity to reflect a survivor benefit is smaller for the participant than for a similarly situated, older individual who is or could be a participant.

B. Conversion Amendments

The 2010 final regulations provide that a participant in a defined benefit plan whose benefits are affected by an amendment that converts the benefit formula under the plan from a formula that is not a statutory hybrid benefit formula to a statutory hybrid benefit formula (conversion amendment) generally must be provided with a benefit after the conversion that, in accordance with the requirements of section 411(b)(5)(B)(ii), is at least equal to the sum of benefits accrued through the date of conversion and benefits earned after the conversion, with no permitted interaction between the two portions. The 2010 final regulations provide for an alternative method of satisfying the conversion protection requirements that applies if an opening hypothetical account balance or opening accumulated percentage of the participant's final average compensation is established at the time of the conversion and the plan provides for separate calculation of (1) the benefit attributable to the opening hypothetical account balance (including interest credits attributable thereto) or attributable to the opening accumulated percentage of the participant's final average compensation and (2) the benefit attributable to post-conversion service under the post-conversion benefit formula. Under this alternative, the plan must provide that, when a participant commences benefits, the participant's benefit will be increased if the benefit attributable to the opening hypothetical account or opening accumulated percentage that is payable in the particular optional form of benefit selected is less than the benefit accrued under the plan prior to the date of conversion and that was payable in the same generalized optional form of benefit (within the meaning of § 1.411(d)–3(g)(8)) at the same annuity starting date.

Several commenters requested that the regulations illustrate the application of the conversion rules for a plan that uses this alternative method of satisfying the conversion protection requirements, with respect to a participant who selects a single-sum distribution option of the participant's entire benefit under the plan after a conversion amendment. In order to respond to this request, a new example has been added to the regulations to illustrate that the participant must be provided with the benefit attributable to post-conversion service, plus the greater of the benefit attributable to the opening hypothetical account balance or the section 417(e) present value at the annuity starting date of the participant's pre-conversion benefit.

The 2010 proposed regulations included a proposed rule whereby certain plans could satisfy the conversion protection requirements by establishing an opening hypothetical account balance without a subsequent comparison of benefits at the annuity starting date. The proposed rule included a number of requirements intended to make it reasonably likely that the hypothetical account balance used to replicate the pre-conversion benefit (the opening hypothetical account balance and interest credits on that account balance) would in most, but not necessarily all, cases provide a benefit at least as large as the pre-conversion benefit for all periods after the conversion amendment.

Several commenters found the proposed rule overly burdensome, due to the many restrictions and requirements. One commenter strongly opposed any conversion alternative that could result in any participant receiving less than the sum of the benefit under the pre-conversion formula plus the benefit under the hybrid formula at the annuity starting date. The Treasury Department and the IRS agree that the proposed rule was complex and that it is not feasible to create a simple rule while also ensuring that participants cannot receive less than is required under sections 411(b)(5)(B)(ii), 411(b)(5)(B)(iii) and 411(b)(5)(B)(iv). As a result, the final regulations only permit the conversion alternative that was included in the 2010 final regulations, where an opening hypothetical account balance or opening accumulated percentage of the participant's final average compensation is established and benefits are compared at the annuity starting date. Consequently, if in reliance on the 2010 proposed regulations, a plan sponsor used the proposed rule to satisfy the conversion protection requirements for plan years that begin on or after January 1, 2012, then the plan must be amended so that distributions with an annuity starting date in a plan year that begins on or after January 1, 2016 satisfy the rules in the final regulations with respect to conversion amendments.

C. Market Rate of Return

General Rules With Respect to Crediting Interest

Pursuant to section 411(b)(5)(B), the 2010 final regulations provide that a statutory hybrid plan satisfies the requirements of section 411(b)(1)(H) prohibiting age discrimination only if the plan does not credit interest at a rate that is greater than a market rate of return. Section 411(b)(5)(B)(i)(III) gives the Secretary the authority to provide by regulation for rules governing the calculation of a market rate of return and for permissible methods of crediting interest resulting in effective rates of return that are not greater than a market rate of return.

The 2010 final regulations set forth certain requirements that apply to a statutory hybrid plan that provides for interest credits. Under these requirements, such a plan must credit interest at least annually, and the plan terms must specify how interest credits are determined, including the timing of the crediting of interest credits. In addition, the 2010 final regulations contain a list of rates that satisfy the requirement that the plan not credit interest at an effective rate that is greater than a market rate of return, while not permitting other rates.

In evaluating whether a particular rate (or combination of rates) provides an effective rate of return that is not greater than a market rate of return for purposes of inclusion on the list of permitted rates under the 2010 final and proposed regulations, the Treasury Department and the IRS considered all fixed and variable components (taking into account any minimum rate of return and

the cumulative zero floor provided by the statutory preservation of capital rule). This approach was taken because of the age discrimination concerns with statutory hybrid plans that credit interest such that the effective rate of return is greater than a market rate of return (as occurs when, for example, the combination of a variable rate of return and a fixed minimum rate provides an effective rate of return that is greater than a market rate of return). In such a case, a younger participant is able to benefit from the above-market rate for a longer period—and therefore receive a more valuable benefit—than a similarly situated, older participant.

A number of commenters objected to the provision under the 2010 final regulations under which a plan that credits interest using an interest crediting rate not on the list of rates in the regulations does not satisfy the requirement that the interest crediting rate not be greater than a market rate of return. These commenters asked that the regulations provide a list of safe harbor interest crediting rates deemed to be not greater than a market rate of return for purposes of the requirements of section 411(b)(5)(B) and also permit the use of other interest crediting rates that do not exceed a market rate of return. However, this approach would require the IRS to evaluate the characteristics of an unrestricted set of interest crediting rates to determine whether the particular interest crediting rate under each plan exceeds a market rate of return. For example, a particular investment-based interest crediting rate available in the market might be so volatile that the combination of the rate and the statutory cumulative zero floor provides an effective rate of return that is greater than a market rate of return. As another example, an interest crediting rate based on an index determined with reference to current yields on bonds that are lower in quality than the bonds used to determine the third segment rate might provide a rate of return that is greater than a market rate of return because that rate of return is not adjusted downward to reflect the occurrence of defaults in those lower quality bonds. It is theoretically possible to adjust an otherwise above-market rate downward (for example, through the use of a maximum or the application of a percentage or basis points reduction applied to the variable rate of return) so that the resulting adjusted rate does not exceed a market rate of return. However, it would not be administratively feasible for the IRS to evaluate each combination of a particular variable rate of return and a minimum rate, a maximum rate, or some other type of adjustment, to determine whether the combination provides an effective rate of return that exceeds a market rate of return. Accordingly, pursuant to the authority provided under section 411(b)(5)(B)(i)(III), the regulations continue to specify which interest crediting rates (including fixed rates, variable rates, and combinations of rates) satisfy the market rate of return requirements of section 411(b)(5)(B), while not permitting other rates.[5]

Although these final regulations continue to specify which interest crediting rates satisfy the market rate of return requirement, the list of rates has been expanded to include certain additional rates not permitted under the 2010 final and proposed regulations. In order to allow for the list of permitted rates to be further expanded in the future, these final regulations include a provision that permits the Commissioner, in guidance published in the Internal Revenue Bulletin, to increase the specific interest crediting rates set forth in the regulations (such as by increasing the maximum permitted margin that can be added to one or more of the safe harbor rates, increasing the maximum permitted fixed rate, or increasing a maximum permitted annual floor). In addition, these final regulations include a provision that permits the Commissioner, in guidance published in the Internal Revenue Bulletin, to provide for additional interest crediting rates that satisfy the requirement that they not exceed a market rate of return for purposes of section 411(b)(5)(B). Thus, for example, the Commissioner could in the future, in guidance published in the Internal Revenue Bulletin, permit a plan to use an annual floor in conjunction with an investment-based rate that is reduced so that the effective rate of return does not exceed a market rate of return. Such an annual floor would allow plans using plan assets or other investment-based market rates that may be negative in some periods to assure positive annual interest credits that could be used in determining benefits and in projecting them for purposes of section 411(b)(1)(B).

2. Use of Adjusted Segment Rates as Interest Crediting Rates

The 2010 final regulations provide that each of the three segment rates described in section 430(h)(2)(C)(i), (ii) and (iii) (which are generally used for purposes of applying the minimum funding requirements for single-employer defined benefit plans) is a permissible interest crediting rate under a statutory hybrid plan. Section 40211(a) of the Moving Ahead for Progress in the 21st Century Act, Public Law 112–141 (126 Stat. 405 (2012)) (MAP–21), added section 430(h)(2)(C)(iv) to the Code, generally effective for plan years beginning on or after January 1, 2012. Section 430(h)(2)(C)(iv) provides that each of the three segment rates for a plan year is adjusted as necessary to fall within a specified range that is determined based on an average of the corresponding segment rates for the 25-year period ending on September 30 of the calendar year preceding the first day of that plan year. Section 2003 of the Highway and Transportation Funding Act of 2014, Public Law 113–159 (128 Stat. 1839 (2014)) (HATFA), modified the ranges set forth in section 430(h)(2)(C)(iv).

These final regulations provide that a statutory hybrid plan is permitted to credit interest using one of the unadjusted segment rates (without regard to section 430(h)(2)(C)(iv)) or one of the adjusted segment rates (as adjusted by application of section 430(h)(2)(C)(iv)), as specified under the terms of the plan. If future interest credits with respect to principal credits that have already accrued are determined using either an adjusted or an unadjusted segment rate, then any subsequent amendment to change to another interest crediting rate with respect to those principal credits (including a change from the adjusted rate to an unadjusted segment rate, or vice versa) must satisfy the requirements of section 411(d)(6).

3. Rate of Return on Plan Assets or a Subset of Plan Assets

The 2010 final regulations include a market rate of return rule that permits indexed benefits (such as those provided under a variable annuity benefit formula) to be adjusted using the actual rate of return on the aggregate assets of the plan, if plan assets are diversified so as to minimize the volatility of returns. Similar to the 2010 proposed regulations, these final regulations extend this rule to statutory hybrid plans generally, so that a plan may credit interest under a cash balance formula using an interest crediting rate equal to the actual rate of return on the aggregate assets of the plan, if plan assets are diversified to minimize the volatility of returns.

One commenter suggested that it should be permissible to adjust a participant's benefit under a statutory

[5] As set forth in the ''Effective/Applicability Date'' section of this preamble, these provisions of the regulations apply for plan years that begin on or after January 1, 2016.

hybrid benefit formula based on the rate of return on a subset of plan assets. There may be a number of reasons why a plan sponsor may find it useful to design a plan so that a participant's benefit is adjusted based on a subset of plan assets. For example, a plan sponsor may wish to credit interest based on a rate of return that differs for different groups of participants (such as using a more conservative, or less volatile, subset of plan assets for long service employees). Similarly, a plan sponsor may wish to credit interest based on a rate of return that excludes certain subsets of plan assets (for example, excluding assets associated with traditional defined benefit plan liabilities after a conversion amendment or otherwise excluding a residual subset of assets associated with liabilities for those participants whose benefits are not adjusted under the statutory hybrid benefit formula).

In order to permit these plan designs, these final regulations expand the list of permissible interest crediting rates by permitting a variable annuity benefit formula to provide adjustments (and a cash balance formula to credit interest) using the rate of return on a subset of plan assets, if certain requirements are satisfied. Specifically, these final regulations provide that an interest crediting rate equal to the actual rate of return on the assets within a specified subset of plan assets, including both positive and negative returns, is not in excess of a market rate of return if: (1) The subset of plan assets is diversified so as to minimize the volatility of returns (this requirement is satisfied if the subset of plan assets is diversified such that it would meet the diversification requirement that must be met in order for aggregate plan assets to be used as an interest crediting rate), (2) the aggregate fair market value of qualifying employer securities and qualifying employer real property (within the meaning of section 407 of ERISA) held in the subset of plan assets does not exceed 10 percent of the fair market value of the aggregate assets in the subset;[6] and (3) the fair market value of the assets within the subset of plan assets approximates the liabilities for benefits that are adjusted by reference to the rate of return on the assets within the subset, determined using reasonable actuarial assumptions. Under this rule, there can be a residual subset of plan assets for liabilities that are not adjusted by reference to a subset (such as a subset consisting of a dedicated bond portfolio designed to satisfy liabilities with respect to retirees). In addition, if other applicable requirements are satisfied, this rule would permit a plan to base adjustments on the rate of return on different subsets for different groups of participants. The regulations include examples that illustrate the use of the rate of return on a subset of plan assets as a permitted interest crediting rate.

4. Rate of Return on a RIC or Other Collective Investments

Like the 2010 proposed regulations, these final regulations also permit a statutory hybrid plan to credit interest using the rate of return on a regulated investment company (RIC) that meets certain standards. Specifically, these final regulations provide that an interest crediting rate is not in excess of a market rate of return if it is equal to the rate of return on a RIC, as defined in section 851, that is reasonably expected to be not significantly more volatile than the broad United States equities market or a similarly broad international equities market. For example, a RIC that has most of its assets invested in securities of issuers (including other RICs) concentrated in an industry sector or a country other than the United States generally would not meet this requirement. Likewise, a RIC that uses leverage, or that has significant investment in derivative financial products, for the purpose of achieving returns that amplify the returns of an unleveraged investment, generally would not meet this requirement. Thus, a RIC that has most of its investments concentrated in the semiconductor industry or that uses leverage in order to provide a rate of return that is twice the rate of return on the Standard & Poor's 500 index (S&P 500) would not meet this requirement. On the other hand, a RIC that has investments that track the rate of return on the S&P 500, a broad-based ''small-cap'' index (such as the Russell 2000 index), or a broad-based international equities index would meet this requirement. The requirement that the RIC's investments not be concentrated in an industry sector or a specific foreign country is intended to limit the volatility of the returns, as well as the risk inherent in non-diversified investments. Similarly, the requirement that the RIC not provide leveraged returns is intended to limit the volatility of the returns provided. Subject to these requirements, the rule is intended to provide plan sponsors with greater flexibility in choosing a permissible rate of return than would be provided if the regulations were to list particular RICs or indices that satisfy the market rate of return requirement.

Several commenters suggested that it should be permissible for a statutory hybrid plan to credit interest using the rate of return on any investment available in the plan sponsor's defined contribution plan. Because the combination of a rate of return on an investment available in the plan sponsor's defined contribution plan and the statutory cumulative zero floor may provide an effective rate of return that is greater than a market rate of return, these final regulations do not provide that the rate of return on an investment is a permissible interest crediting rate merely because the investment is available in the plan sponsor's defined contribution plan. However, a subset of plan assets of a statutory hybrid plan could be comprised of investments that are options under the plan sponsor's defined contribution plan (which could be owned through a collective investment vehicle). In such a case, if the requirements set forth earlier are satisfied with respect to that subset, the rate of return on that subset would be a permissible interest crediting rate. In addition, if an investment available in the plan sponsor's defined contribution plan is a RIC that meets the requirements of the preceding paragraph, the rate of return on that RIC would also be a permissible interest crediting rate.

5. Permitted Fixed Rate

Section 411(b)(5)(B)(i)(III) authorizes the Treasury Department to issue regulations permitting a fixed rate of interest under the rules relating to a market rate of return. However, reconciling a plan's ability to provide a fixed interest crediting rate with the requirement under section 411(b)(5)(B)(i)(I) that an interest crediting rate ''*for any plan year* shall be at a rate which is not greater than a market rate of return'' [emphasis added] presents unique challenges because, by definition, fixed rates do not adjust with the market. As a result, the use of any fixed rate will result in an interest crediting rate that is above a then-current market rate of interest during any period in which the current market rate falls below the fixed rate.

In light of this fact, the Treasury Department and the IRS believe that, in order to satisfy the market rate of return requirement, any fixed interest crediting rate allowed under the rules must not be expected to exceed future market rates of interest, except infrequently, by small amounts, and for limited durations. Prior to the publication of the 2010 proposed regulations, the Treasury

[6] The 10 percent limitation is similar to the limitation that applies with respect to aggregate plan assets under section 407 of ERISA.

Department and the IRS modeled the difference between account balances credited with interest credits determined using various fixed interest rates and account balances credited with interest credits determined using long-term investment grade corporate bond yields, based on a stochastic distribution of those yields that reflects the historical distribution of those yields. Based on that modeling, a maximum fixed interest crediting rate of 5% per year was included in the proposed regulations.

This analysis was undertaken again prior to the publication of these regulations, using additional historical data. Based on the additional historical data, the Treasury Department and the IRS have determined that a fixed interest crediting rate of up to 6 percent satisfies these criteria and that any higher fixed rate would result in an effective rate of return that is in excess of a market rate of return. In addition to satisfying the market rate of return requirements, a fixed 6 percent rate of interest is deemed to be not in excess of the third segment rate described in section 417(e)(3)(D) or 430(h)(2)(C)(iii) (and, therefore, a plan that uses such a rate is permitted to use the special rule described in section III.E of this preamble to switch to the third segment rate without providing section 411(d)(6) protection).

6. Permitted Annual and Cumulative Floors

As part of the historical modeling of rates done prior to the publication of the 2010 proposed regulations, the Treasury Department and the IRS modeled the historical distribution of rates of interest on long-term investment grade corporate bonds to determine the additional value added by various fixed floors used in conjunction with these rates. Based on this modeling, the 2010 proposed regulations would have provided that a fixed floor up to 4 percent was permissible in connection with any of the permissible bond-based interest crediting rates. Several commenters requested that the fixed floor used in conjunction with the bond-based rates be increased by at least 100 basis points. Prior to the publication of these regulations, the Treasury Department and the IRS undertook the same analysis as was undertaken prior to the publication of the 2010 proposed regulations, using additional historical data. In addition, the Treasury Department and the IRS modeled the historical distribution of the 30-year Treasury rate with fixed floors of various values compared to the historical distribution of rates of interest on long-term investment grade corporate bonds. The rates permitted under Notice 96–8 (''Notice 96–8 rates''), including the government bond-based rates such as the 30-year Treasury rate, are generally expected to be lower than the rate of interest on long-term investment grade corporate bonds. As a result, the annual floor used in conjunction with the Notice 96–8 rates can be increased to some extent without adding so much additional value that the effective rate of return is greater than a market rate of return. Accordingly, the final regulations provide that it is permissible for a plan to utilize an annual floor of up to 5 percent in conjunction with any of the Notice 96–8 rates.[7] Like the 2010 proposed regulations, these regulations continue to provide that a plan can utilize an annual floor of up to 4 percent in conjunction with the third segment rate (the rate of interest on long-term investment grade corporate bonds), or in conjunction with the first or second segment rates.

In contrast, because of the volatility of a rate of return that reflects changes in the price level of underlying investments (''investment-based rate''), adding an annual floor to an investment-based rate often provides an effective rate of return on a cumulative basis that far exceeds the rate of return provided by the investment-based rate without such a floor. Also, commenters on both the 2007 proposed regulations and the 2010 proposed regulations generally did not request that such an annual floor be permitted. Accordingly, the final regulations do not allow the use of an annual floor in conjunction with any of the permissible investment-based rates (i.e., the rate of return on plan assets, a subset of plan assets, or a RIC).

On the other hand, if, instead of applying a floor on each year's rate of return, a cumulative floor is applied to an investment-based rate, the effective rate of return is not necessarily substantially greater than the rate of return provided without the floor. Specifically, the Treasury Department and the IRS have determined that, based on the modeling of long-term historical returns, a 3 percent floor that applies cumulatively (in the aggregate from the date of each principal credit until the annuity starting date, without a floor on the rate of return provided in any interim period) could be combined with a permissible investment-based rate (or any other permissible rate), without increasing the effective rate of return to such an extent that the effective rate of return would be in excess of a market rate of return. As a result, like the 2010 proposed regulations, the regulations provide that a plan that determines interest credits using any particular interest crediting rate that satisfies the market rate of return limitation does not provide an effective interest crediting rate in excess of a market rate of return merely because the plan provides that the participant's benefit, as of the participant's annuity starting date, is equal to the greater of the benefit determined using the interest crediting rate and the benefit determined as if the plan had used a fixed annual interest crediting rate equal to 3 percent (or a lower rate) for all principal credits that are made during the guarantee period. For this purpose, the guarantee period is the prospective period that begins on the date the cumulative floor begins to apply to the participant's benefit and that ends on the date on which that cumulative floor ceases to apply to the participant's benefit.

These regulations provide that the determination of the amount payable pursuant to the guarantee provided by any cumulative floor with respect to the participant's benefit is made only as of an annuity starting date on which a distribution of the participant's entire benefit as of that date under the plan's statutory hybrid benefit formula commences. These final regulations provide special rules in the case of a participant who has multiple annuity starting dates, in order to ensure that prior annuity starting dates are taken into account in determining the guarantee provided by a cumulative floor. These special rules in the case of a participant who has multiple annuity starting dates are largely substantively unchanged from rules in the 2010 proposed regulations, except that language has been clarified to provide that the comparison involves a comparison of the accumulated benefit to which the guarantee applies to the sum of principal credits to which the guarantee applies (and to conform to similar changes made to the rules with respect to the application of the preservation of capital requirement to a participant who has multiple annuity starting dates, as described later in section II.C.8 of this preamble, except that the new special rule for participants with 5 or more 1-year breaks in service applies only to the preservation of capital requirement).

[7] These regulations conform the names of the government bond-based rates that are permitted to be used pursuant to this rule to the names of the rates set forth in Notice 96–8.

Variable rate	Maximum permitted floor
Notice 96–8 rate (for example, the yield on 30-year Treasury Constant Maturities)	5 percent annual.
1st, 2nd, or 3rd segment rate	4 percent annual.
Investment-based rate (for example, the rate of return on aggregate plan assets)	3 percent cumulative.

7. Permitted Margins on Government Bond-Based Rates

A number of commenters suggested that the permitted margins used in conjunction with the permitted government bond-based interest crediting rates be increased to make these rates more equivalent to the third segment rate. As clarified in these regulations, the permitted government bond-based rates and margins are the same as those that were permitted under Notice 96–8. These rates and margins have largely been maintained for the convenience of plan sponsors, so that a plan that has been using a Notice 96–8 rate can continue to do so.

The Treasury Department and the IRS understand that very few plans with government bond-based rates have margins in excess of those provided under Notice 96–8. Moreover, there are several methods by which a plan can credit interest based on a bond-based rate that is expected to be greater than a Notice 96–8 rate. For example, a plan that is using a Notice 96–8 rate can be amended to switch to the third segment rate for purposes of determining all future interest credits without the need to preserve the Notice 96–8 rate with respect to benefits accrued before the applicable amendment date if, on the effective date of the amendment, the third segment rate is not lower than the Notice 96–8 rate that would have applied in the absence of the amendment (and the other requirements of § 1.411(b)(5)–1(e)(3)(ii), which are described in section III.E of this preamble, are satisfied). In addition, because a plan can provide for a rate of return that is the lesser of a permitted rate and any other rate, a plan could adopt an interest crediting rate with respect to future pay credits that is the lesser of the third segment rate and a government bond-based rate described in Notice 96–8 with a margin, even if that margin exceeds the margin permitted under these final regulations.

8. Other Rules With Respect to Crediting Interest

Like the 2010 proposed regulations, these final regulations include a rule that provides that a plan is not treated as failing to meet the interest crediting requirements merely because the plan does not provide for interest credits on amounts distributed prior to the end of the interest crediting period. Thus, if a plan credits interest at annual or more frequent period intervals, the plan is not required to credit interest on amounts that were distributed between the dates on which interest under the plan is credited to the account balance. Also, the rule in the 2010 proposed regulations that allows plans to credit interest taking into account increases or decreases to the participant's accumulated benefit that occur during the period has been finalized as proposed.

The 2010 final regulations provide that a statutory hybrid plan does not provide an effective interest crediting rate that is in excess of a market rate of return merely because the plan determines an interest credit by applying different rates to different predetermined portions of the accumulated benefit, provided each rate would be a permissible rate if the rate applied to the entire accumulated benefit. With respect to this provision, some commenters suggested that the regulations should be explicit that a single rate that is a specified blend of multiple rates that applies to the entire cash balance account is permissible, as is applying different rates to different specified subaccounts of the cash balance account. The Treasury Department and the IRS believe that the current rule accommodates such a blended rate, since the predetermined portion to which a rate applies can either be a specified percentage of the cash balance account or a specified subaccount. As a result, the rule with respect to blended rates remains unchanged in the regulations.

These final regulations make some clarifying changes to the preservation of capital requirement that was included in the 2010 final regulations. In particular, these final regulations clarify that the preservation of capital requirement involves a comparison of the accumulated benefit to the sum of all principal credits and that the requirement is applied only as of an annuity starting date with respect to which a distribution of the participant's entire vested benefit under the plan's statutory hybrid benefit formula as of that date commences.

Like the 2010 proposed regulations, these final regulations provide special rules in the case of a participant who has multiple annuity starting dates, in order to ensure that prior annuity starting dates are taken into account in determining the amount of the guarantee provided under the preservation of capital requirement. Although the preservation of capital requirement applies only as of an annuity starting date with respect to which a distribution of the participant's entire vested benefit under the plan's statutory hybrid benefit formula as of that date commences, all prior annuity starting dates (including annuity starting dates with respect to partial distributions) are taken into account when applying the preservation of capital requirement as of that annuity starting date.

The special rules with respect to the preservation of capital requirement for a participant who has multiple annuity starting dates remain largely unchanged from the rules in the 2010 proposed regulations, except that these rules have been revised to reflect corresponding changes in the regulations that explicitly permit certain subsidies under statutory hybrid plans.

One commenter requested that the special rules with respect to the preservation of capital requirement for a participant who has multiple annuity starting dates not apply in the case of a participant who has experienced a break in service. In response to this comment, a new rule has been added to the regulations. Under this new rule of administrative convenience, a plan is permitted to provide that, in the case of a participant who receives a distribution of the entire vested benefit under the plan and thereafter completes 5 consecutive 1-year breaks in service, the preservation of capital requirement is applied without regard to the prior period of service. Thus, in the case of such a participant, the plan is permitted to provide that the preservation of capital requirement is applied disregarding the principal credits and distributions that occurred before the breaks in service. Application of this rule could result in a participant receiving a greater benefit (but never less) than would otherwise be provided without such a rule.

Because section 411(a)(13)(A) does not override the requirement that a defined benefit plan either provide an

actuarial increase after normal retirement age or satisfy the requirements for suspension of benefits, a statutory hybrid plan that does not suspend benefits in accordance with section 411(a)(3)(B) will have to provide for adjustments in excess of the benefits determined using the plan's interest crediting rate if the interest crediting rate is insufficient to provide the required actuarial increases. However, without a special rule, that greater benefit could cause the market rate of return requirements to be violated. Thus, like the 2010 proposed regulations, these final regulations provide for a special rule that allows for any required adjustments after normal retirement age to be provided as interest credits without violating the market rate of return requirements.

D. Plan Termination

Like the 2010 proposed regulations, the regulations provide special rules that apply for purposes of determining interest crediting rates and certain other plan factors under a statutory hybrid benefit formula after the plan termination date of a statutory hybrid plan, including guidance with respect to 5-year averaging of rates under section 411(b)(5)(B)(vi). The terms of a statutory hybrid plan must reflect these rules.

The regulations provide guidance as to the interest crediting rate used to determine benefits after the plan termination date. Several commenters on the 2010 proposed regulations suggested that additional guidance is needed as to the rules that apply with respect to the annuity conversion interest rates and factors that apply after the plan termination date, as well as the mortality table that is used after the plan termination date. In response to these comments, these regulations provide additional guidance as to annuity conversion rates, factors, and mortality tables.

Similar to the 2010 proposed regulations, the regulations provide that a plan satisfies the plan termination requirements only if the interest crediting rate used to determine a participant's accumulated benefit for interest crediting periods that end after the plan termination date is equal to the average of the interest rates used under the plan during the 5-year period ending on the plan termination date. Pursuant to section 411(d)(5)(B)(vi), the actual interest crediting rate (taking into account minimums, maximums, and other adjustments) used under the plan for the interest crediting period generally is used for purposes of determining the average of the interest rates. However, section 411(b)(5)(B)(vi) does not provide a rule for periods in which an investment-based rate of return, rather than a variable interest rate, is used under the plan to determine interest credits. In addition, the trailing 5-year average of an investment-based rate of return may be unreasonably high or unreasonably low and, unlike the trailing 5-year average of an interest rate, will have little, if any, correlation to the actual future investment-based rate of return. As a result, the Treasury Department and the IRS do not believe it is appropriate for the trailing 5-year average of an investment-based rate of return to be used to determine benefits after plan termination.

The 2010 proposed regulations would have substituted the third segment rate generally for interest crediting rates that are not based on interest rates. A number of commenters suggested that the substitution of the third segment rate would make plan termination unduly costly for plans that used investment-based interest crediting rates. While the future return of an investment that includes an equity component may be expected to be higher than the third segment rate, the Treasury Department and the IRS note that the third segment rate is normally higher than the rate used under defined benefit plans for other purposes, including funding, and agree that the third segment rate is inappropriately high for purposes of substituting a fixed rate of return for periods after the plan's termination date. Consistent with the statutory language of section 411(b)(5)(B)(vi)(I), the Treasury Department and the IRS continue to believe it is appropriate to substitute a rate of interest used under the plan for those periods in which an investment-based rate of return was used to determine interest credits. However, in lieu of the third segment rate, the final regulations provide that the second segment rate under section 430(h)(2)(C)(ii) (determined without regard to section 430(h)(2)(C)(iv)) for the last calendar month ending before the beginning of the interest crediting period, generally must be substituted for an investment-based rate of return that applied for that interest crediting period. For many plans, the second segment rate is close to the effective interest rate that is used for funding purposes, and thus the substitute interest rate frequently will approximate the plan's funding discount rate (without being affected by the specific plan demographics).

The regulations contain certain rules of application with respect to these plan termination rules, including rules with respect to section 411(d)(6) protected benefits. The regulations also include examples to illustrate the application of these plan termination rules. In response to a commenter's request, the regulations include an example illustrating the application of these plan termination rules in the case where the plan uses the section 417(e) segment rates for annuity conversion.

E. Rules Relating to Section 411(d)(6) and Interest Crediting Rates

The 2010 final regulations provided that the right to interest credits in the future that are not conditioned on future service constitutes a section 411(d)(6) protected benefit. One commenter expressed concern that this rule was overbroad. In response to this comment, these final regulations clarify that the right to future interest credits determined in the manner specified under the plan and not conditioned on future service is a factor that is used to determine the participant's accrued benefit for purposes of section 411(d)(6). Thus, if a plan is amended so that it could potentially provide smaller future interest credits on the then-current accumulated benefit than would have been provided prior to the amendment, the plan must otherwise provide for increased benefits such that the potentially smaller interest credits cannot result in a smaller accrued benefit (or a smaller payment under any optional form of benefit) as of any future date than the accrued benefit (or payment under the optional form of benefit) as of the applicable amendment date. See section I.B of this preamble for a discussion of the additional rule under the regulations pursuant to which the relief of section 411(a)(13) does not permit the accumulated benefit under a lump sum-based benefit formula to be reduced in a manner that would be prohibited if that reduction were applied to the accrued benefit.

The 2010 final regulations contain a rule under which a plan is not treated as providing for smaller interest credits in the future in violation of section 411(d)(6) merely because of an amendment that changes the plan's interest crediting rate from one of the Notice 96–8 rates (or the first or second segment rates) to the third segment rate, if three requirements are satisfied. Specifically, the rule is only available if the change applies to interest credits to be credited after the effective date of the amendment, the effective date of the amendment is at least 30 days after adoption and, on the effective date of the amendment, the new interest

crediting rate is not lower than the interest crediting rate that would have applied in the absence of the amendment. The 2010 final regulations do not specify how a plan with a fixed annual floor used in connection with the pre-amendment rate should account for the floor when changing to the third segment rate. These final regulations add a fourth requirement to this rule, which provides that, for plan years that begin on or after January 1, 2016, any fixed annual floor that was used in connection with the pre-amendment rate must be retained after the amendment to the maximum extent permissible under the market rate of return requirement in the final regulations. Thus, for example, if prior to the amendment a plan was using a fixed annual floor of 4.5 percent in connection with the yield on 30-year Treasury Constant Maturities, then, if the plan is amended to change the rate to the third segment rate it must provide a fixed annual floor of 4 percent.

Because section 411(d)(6) requires that a plan amendment not result in a reduction to the accrued benefit, changes in interest crediting rates would be difficult to implement without special market rate of return rules. Thus, like the 2010 proposed regulations, the regulations contain a special market rate of return rule that applies in the case of an amendment to change the plan's interest crediting rate. This rule provides that the market rate of return rule is not violated merely because the plan provides that the benefit of active participants after the interest crediting rate change can never be less than the benefit under the old rate (without future principal credits), subject to an anti-abuse rule. This rule does not extend to participants who are not active participants as of the date of amendment because such an extension would cause those participants effectively to receive a rate of return on their entire account balance that is the greater of the old and the new rate, which would be an impermissible above-market interest crediting rate under the regulations (unless the resulting greater-of rate is otherwise permitted under the regulations). These final regulations also contain a special rule that provides both section 411(d)(6) relief and relief under the market rate of return rules for changing the lookback month or stability period used to determine interest credits (for a plan using a bond-based interest crediting rate), subject to an anti-abuse rule.

A comment request that was included in the preamble to the 2010 proposed regulations asked how section 411(d)(6) applies in the case of a plan that credits interest using an interest crediting rate equal to the rate of return on a RIC if the RIC ceases to exist. Commenters generally suggested that section 411(d)(6) should be treated as satisfied in such a case if the plan sponsor replaces the RIC that ceases to exist with a RIC with similar characteristics (such as risk and expected return). The Treasury Department and the IRS generally agree with these comments. As a result, these final regulations provide for a special rule that applies in the case of a statutory hybrid plan that credits interest using an interest crediting rate equal to the rate of return on a RIC that ceases to exist, whether as a result of a name change, liquidation, or otherwise. In such a case, the plan is not treated as violating section 411(d)(6) provided that the rate of return on the successor RIC is substituted for the rate of return on the RIC that no longer exists, for purposes of crediting interest for periods after the date the RIC ceased to exist. In the case of a name change or merger of RICs, the successor RIC means the RIC that results from the name change or merger involving the RIC that no longer exists. In all other cases, the successor RIC is a RIC selected by the plan sponsor that has reasonably similar characteristics, including characteristics related to risk and rate of return, as the RIC that no longer exists.

Prior to the first day of the first plan year that begins on or after January 1, 2016, a statutory hybrid plan that uses an interest crediting rate that is not permitted under the final regulations must be amended to change to an interest crediting rate that is on the list of permitted interest crediting rates under the regulations. This is because, after that date, the final regulations set forth the list of interest crediting rates that satisfy the requirement of section 411(b)(5)(B)(i) that the plan not provide an effective rate of return that is greater than a market rate of return. However, an amendment that reduces the interest crediting rate with respect to benefits that have already accrued would ordinarily be impermissible under section 411(d)(6). A comment request that was included in the preamble to the 2010 proposed regulations solicited comments with respect to guidance needed to resolve this conflict between the market rate of return rules of section 411(b)(1)(B)(i) and the anti-cutback rules of section 411(d)(6) in order to permit a plan to change its interest crediting rate to comply with the final regulations. After consideration of the comments received, proposed regulations that would permit a plan with a noncompliant interest crediting rate to be amended so that its interest crediting rate complies with the market rate of return rules are being issued concurrently with these final regulations.

F. Requests To Introduce ''Self-Directed Investment'' Into Statutory Hybrid Plans

In response to stakeholder suggestions, the preamble of the 2010 proposed regulations requested comments as to whether a statutory hybrid plan should be able to offer participants the opportunity to choose from a menu of hypothetical investment options. If such an approach were adopted, it could introduce into defined benefit pension plans that constitute statutory hybrid plans a form of participant involvement in the selection of interest crediting rates that would be somewhat analogous to the self-directed investment practices that are typical of section 401(k) retirement savings plans. Under such an approach, participants could choose from among hypothetical investment options that would determine the interest crediting rate. The menu of hypothetical investment options might include various equity or fixed income investment alternatives, potentially including options similar to balanced or target date funds.[8] The 2010 preamble also requested comments on the plan qualification issues that might arise under such a plan design, such as the treatment of forfeitures, the application of the anti-cutback rules under section 411(d)(6), compliance with the market rate of return requirement, and other section 411(b)(5) issues. In addition, comments were specifically requested as to whether events such as the following would raise issues: (1) A participant elects to switch from one investment option to another; (2) a RIC underlying one of the investment options ceases to exist; (3) the plan is amended to eliminate an investment option; (4) a participant elects to switch from an investment option with a cumulative minimum to an investment option without a cumulative minimum (or vice versa); or (5) the plan is terminated and, pursuant to the special rules that apply upon plan termination, the interest crediting rate that applies to determine a participant's benefit after plan termination must be fixed.

Several commenters expressed serious concerns about the possibility of giving

[8] A target date investment option under a statutory hybrid plan would transition participants incrementally at certain ages from a blended rate that is more heavily equity-weighted to a rate that is more heavily weighted in fixed income.

statutory hybrid plan participants the ability to choose from a menu of hypothetical investment options. These comments reflect a general concern that adding participant choice of investment options to a statutory hybrid plan would constitute a further departure of these plans from the fundamental nature of defined benefit pension plans. Underlying this general concern appears to be a view that participant choice of investment options is a practice that has developed uniquely in the context of certain types of defined contribution retirement savings vehicles (such as section 401(k) and section 403(b) plans) and is not readily reconcilable with the statutory and regulatory regime applicable to defined benefit pension plans. For example, commenters questioned the advisability of shifting retirement security risks to participants in defined benefit pension plans in a manner similar to self-directed investing in section 401(k) plans. In this regard, commenters have raised questions as to whether participants in general have the knowledge, experience, and discipline to deal as effectively as plan fiduciaries and other investment professionals with the different risk and return characteristics of various investment options and to formulate and adhere systematically to methodical investment practices and strategies (such as appropriate risk diversification and regular rebalancing).

Commenters also raised concerns regarding potential hazards for trustees and plan sponsors of statutory hybrid plans that provide investment choices to participants. Commenters suggested that if plan assets were invested to track participant elections of equity-heavy interest crediting options or frequent participant-directed investment changes that might not be prudent, section 404(c) of ERISA might not be available to limit plan fiduciary liability and help protect participants. In the alternative, concerns have been expressed that, if plan assets were invested according to a traditional defined benefit plan investment strategy not correlated with participants' elections, a well-funded plan might quickly become underfunded in a period when equity-heavy interest crediting options perform well (which could lead to additional exposure for the PBGC and put participants at risk for shortfalls in anticipated benefits).

In addition, because the interest crediting rate is part of a participant's accrued benefit and all related future interest credits are accrued at the time a participant accrues a pay credit, some commenters suggested that a change in the interest crediting rate might be treated as a plan amendment for section 411(d)(6) anti-cutback purposes (similar to rules preventing participants from waiving all or any part of their accrued benefit). This section 411(d)(6) interpretation would require preserving the prior interest crediting rate with respect to benefits previously accrued. Under this interpretation, participants would be encouraged to select one rate and subsequently change to another rate with different characteristics to achieve the greater of the two interest crediting rates. In addition, the resulting greater-of rate that is required under this section 411(d)(6) interpretation raises issues under the section 411(b)(5) rules that provide that an interest crediting rate cannot exceed a market rate of return.

Other commenters suggested that the regulations should permit statutory hybrid plans to provide for participant choice among hypothetical investment options. For example, they noted that if statutory hybrid plans were permitted to allow participant-directed investments, this plan design might be more popular among participants and employer sponsors, in an era in which adoption and retention of defined benefit plans generally have been waning. The commenters also argued that permitting investment-based rates of return in statutory hybrid plans suggests that participants should be permitted to direct the investment of their hypothetical accounts on the theory that participants should have the option to elect a less volatile investment, particularly as they near retirement, as in the case of a target date fund or managed account. These commenters argued that a choice among investment options is dissimilar, for purposes of applying the anti-cutback rule of section 411(d)(6), to a waiver of accrued benefits (because, at the time of a change, the value of an investment dollar in any market-based investment option is the same as the value of an investment dollar in any other market-based investment option). They contended that the anti-cutback rule may protect a participant's right to choose among interest crediting measures, but would not protect the accrued benefit determined under a participant's particular choice among interest crediting measures.

Some commenters that advocated that the regulations permit a statutory hybrid plan to provide for participant choice among investment options also requested transition relief in the event that regulations do not permit this type of plan design. For example, they suggested that participant choice be permitted during the interim period between the statutory and regulatory effective dates. They also suggested that, even after the regulatory effective date, a participant in a plan that previously provided for participant choice be permitted to continue to direct the investment of the account balance credited to that participant as of the regulatory effective date and/or that anti-cutback relief be provided so that plan sponsors can move to a different method of matching investment risk to individual participant circumstances (such as basing interest crediting rates on the performance of target date funds or managed accounts, without participant choice).

Because of the significant concerns relating to the use of statutory hybrid plan designs that would permit participants to choose among a menu of investment options specified in the plan document, the Treasury Department and the IRS continue to study these issues. It is possible that the Treasury Department and the IRS will conclude that such plan designs are not permitted. In that event, it is anticipated that any statutory hybrid plans that permitted participant choice among a menu of investment options on September 18, 2014 pursuant to plan provisions that were adopted by September 18, 2014 would receive anti-cutback relief that would permit any such plans to be amended to provide for one or more appropriate alternative replacement interest crediting measures.

Some commenters raised concerns regarding whether it would be consistent with the fiduciary, disclosure, and other requirements of Title I of ERISA if a statutory hybrid plan were to permit participant choice among a menu of investment options. Concerns raised by these plan designs under Title I of ERISA are within the jurisdiction of the Secretary of Labor. See Reorganization Plan No. 4 of 1978, 5 U.S.C. App. at 672 (2006).

Effective/Applicability Dates

Except as otherwise provided, the new rules under these final regulations apply to plan years that begin on or after January 1, 2016. (The rules in these final regulations that merely clarify provisions that were included in the 2010 final regulations apply to plan years that begin on or after January 1, 2011, in accordance with the general effective/applicability date of the 2010 final regulations). In addition, these regulations amend § 1.411(b)(5)–1 to provide that § 1.411(b)(5)–1(d)(1)(iii), (d)(1)(vi) and (d)(6)(i) (which provide that the regulations set forth the list of interest crediting rates and combinations of interest crediting rates

that satisfy the market rate of return requirement under section 411(b)(5)) apply to plan years that begin on or after January 1, 2016.[9]

The final regulations reflect the statutory effective dates set forth in section 701(e) of PPA '06. Pursuant to section 701(e)(1) of PPA '06, the amendments made by section 701 of PPA '06 are generally effective for periods beginning on or after June 29, 2005. However, sections 701(e)(2) through 701(e)(6) of PPA '06, as amended by WRERA '08, set forth a number of special effective/applicability date rules that are described earlier in the Background section of the preamble of these regulations.

For periods after the statutory effective date and before the regulatory effective date, the relief of sections 411(a)(13) and 411(b)(5) applies and the requirements of sections 411(a)(13) and 411(b)(5) must be satisfied. As provided in the 2010 final regulations, a plan is permitted to rely on the provisions of the final regulations for purposes of applying the relief and satisfying the requirements of sections 411(a)(13) and 411(b)(5) for periods after the statutory effective date and before the regulatory effective date. For such periods, a plan is also permitted to rely on the provisions of the 2010 proposed regulations, the 2007 proposed regulations and Notice 2007–6 for purposes of applying the relief and satisfying the requirements of sections 411(a)(13) and 411(b)(5).

The regulations should not be construed to create any inference concerning the applicable law prior to the effective dates of sections 411(a)(13) and 411(b)(5). See also section 701(d) of PPA '06. In addition, the regulations should not be construed to create any inference concerning the proper interpretation of sections 411(a)(13) and 411(b)(5) prior to the effective date of the regulations. Thus, for example, if prior to the effective date of these final regulations a plan provided an interest crediting rate that is not provided for under the final regulations, the plan's interest crediting rate for that period could nonetheless satisfy the statutory requirement that an applicable defined benefit plan not provide for interest credits (or equivalent amounts) for any plan year at an effective rate that is greater than a market rate of return.

[9] The 2010 final regulations provide that these particular provisions apply to plan years that begin on or after January 1, 2012. The intention to delay the effective/applicability date of these provisions was announced in Notice 2011–85 and Notice 2012–61. Notice 2012–61 announced that these provisions would not be effective for plan years beginning before January 1, 2014.

Special Analyses

It has been determined that these regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the proposed regulations preceding these final regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal authors of these regulations are Neil S. Sandhu and Linda S. F. Marshall, Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and the Treasury Department participated in the development of these regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.411(a)(13)–1 is amended by:

■ 1. Revising paragraphs (b)(2), (b)(3), (b)(4), (d)(3)(i), (d)(4)(ii)(A), (d)(4)(ii)(C), (d)(6), and (e)(2)(ii).

■ 2. Adding paragraph (d)(4)(ii)(E).

The revisions and addition read as follows:

§ 1.411(a)(13)–1 Statutory hybrid plans.

* * * * *

(b) * * *

(2) *General rules with respect to current account balance or current value*—(i) *Benefit after normal retirement age.* The relief of section 411(a)(13) does not override the requirement for a plan that, with respect to a participant with an annuity starting date after normal retirement age, the plan either provide an actuarial increase after normal retirement age or satisfy the requirements for suspension of benefits under section 411(a)(3)(B). Accordingly, with respect to such a participant, a plan with a lump sum based benefit formula violates the requirements of section 411(a) if the balance of the hypothetical account or the value of the accumulated percentage of the participant's final average compensation is not increased sufficiently to satisfy the requirements of section 411(a)(2) for distributions commencing after normal retirement age, unless the plan suspends benefits in accordance with section 411(a)(3)(B).

(ii) *Reductions limited.* The relief of section 411(a)(13) does not permit the accumulated benefit under a lump sum-based benefit formula to be reduced in a manner that would be prohibited if that reduction were applied to the accrued benefit. Accordingly, the only reductions that can apply to the balance of the hypothetical account or accumulated percentage of the participant's final average compensation are reductions as a result of—

(A) Benefit payments;

(B) Qualified domestic relations orders under section 414(p);

(C) Forfeitures that are permitted under section 411(a) (such as charges for providing a qualified preretirement survivor annuity);

(D) Amendments that would reduce the accrued benefit but that are permitted under section 411(d)(6);

(E) Adjustments resulting in a decrease in the balance of the hypothetical account due to the application of interest credits (as defined in § 1.411(b)(5)–1(d)(1)(ii)(A)) that are negative for an interest crediting period;

(F) In the case of a formula that expresses the accumulated benefit as an accumulated percentage of the participant's final average compensation, adjustments resulting in a decrease in the dollar amount of the accumulated percentage of the participant's final average compensation—

(*1*) Due to a decrease in the dollar amount of the participant's final average compensation; or

(*2*) Due to an increase in the integration level, under a formula that is integrated with Social Security (for example, as a result of an increase in the Social Security taxable wage base or in Social Security covered compensation); or

(G) Other reductions to the extent provided by the Commissioner in revenue rulings, notices, or other guidance published in the Internal

Revenue Bulletin (see § 601.601(d)(2)(ii)(*b*)).

(3) *Payment of benefits based on current account balance or current value*—(i) *Optional forms that are actuarially equivalent.* With respect to the benefits under a lump sum-based benefit formula, the relief of paragraph (b)(1) of this section applies to an optional form of benefit that is determined as of the annuity starting date as the actuarial equivalent, using reasonable actuarial assumptions, of the then-current balance of a hypothetical account maintained for the participant or the then-current value of an accumulated percentage of the participant's final average compensation.

(ii) *Optional forms that are subsidized.* With respect to the benefits under a lump sum-based benefit formula, if an optional form of benefit is payable in an amount that is greater than the actuarial equivalent, determined using reasonable actuarial assumptions, of the then-current balance of a hypothetical account maintained for the participant or the then-current value of an accumulated percentage of the participant's final average compensation, then the plan satisfies the requirements of sections 411(a)(2), 411(a)(11), 411(c) and 417(e) with respect to the amount of that optional form of benefit. However, see § 1.411(b)(5)–1(b)(1)(iii) for rules relating to early retirement subsidies.

(iii) *Optional forms that are less valuable.* Except as otherwise provided in paragraph (b)(4)(i) of this section, if an optional form of benefit is not at least the actuarial equivalent, using reasonable actuarial assumptions, of the then-current balance of a hypothetical account maintained for the participant or the then-current value of an accumulated percentage of the participant's final average compensation, then the relief under section 411(a)(13) (permitting a plan to treat the account balance or accumulated percentage as the actuarial equivalent of the portion of the accrued benefit determined under the lump sum-based benefit formula) does not apply in determining whether the optional form of benefit is the actuarial equivalent of the portion of the accrued benefit determined under the lump sum-based benefit formula. As a result, payment of that optional form of benefit must satisfy the rules applicable to payment of the accrued benefit generally under a defined benefit plan (without regard to the special rules of section 411(a)(13)(A) and paragraph (b)(1) of this section), including the requirements of section 411(a)(2) and, for optional forms subject to the minimum present value requirements of section 417(e)(3), those minimum present value requirements.

(4) *Rules of application*—(i) *Relief applies on proportionate basis with respect to payment of only a portion of the benefit under a lump sum-based benefit formula.* The relief of paragraph (b)(1) of this section applies on a proportionate basis to a payment of a portion of the benefit under a lump sum-based benefit formula, such as a payment of a specified dollar amount or percentage of the then-current balance of a hypothetical account maintained for the participant or then-current value of an accumulated percentage of the participant's final average compensation. Thus, for example, if a plan that expresses the participant's entire accumulated benefit as the balance of a hypothetical account distributes 40 percent of the participant's then-current hypothetical account balance in a single payment, the plan is treated as satisfying the requirements of section 411(a) and the minimum present value rules of section 417(e) with respect to 40 percent of the participant's then-current accrued benefit.

(ii) *Relief applies only to portion of benefit determined under lump sum-based benefit formula.* The relief of paragraph (b)(1) of this section generally applies only to the portion of the participant's benefit that is determined under a lump sum-based benefit formula and generally does not apply to any portion of the participant's benefit that is determined under a formula that is not a lump sum-based benefit formula. The following rules apply for purposes of satisfying section 417(e):

(A) *''Greater-of'' formulas.* If the participant's accrued benefit equals the greater of the accrued benefit under a lump sum-based benefit formula and the accrued benefit under another formula that is not a lump-sum based benefit formula, a single-sum payment of the participant's entire benefit must be no less than the greater of the then-current accumulated benefit under the lump sum-based benefit formula and the present value, determined in accordance with section 417(e), of the benefit under the other formula. For example, assume that the accrued benefit under a plan is determined as the greater of the accrued benefit attributable to the balance of a hypothetical account and the accrued benefit equal to a pro rata portion of a normal retirement benefit determined by projecting the hypothetical account balance (including future principal and interest credits) to normal retirement age. In such a case, a single-sum payment of the participant's entire benefit must be no less than the greater of the then-current balance of the hypothetical account and the present value, determined in accordance with section 417(e), of the pro rata benefit determined by projecting the hypothetical account balance to normal retirement age.

(B) *''Sum-of'' formulas.* If the participant's accrued benefit equals the sum of the accrued benefit under a lump sum-based benefit formula and the accrued benefit under another formula that is not a lump-sum based benefit formula, a single-sum payment of the participant's entire benefit must be no less than the sum of the then-current accumulated benefit under the lump sum-based benefit formula and the present value, determined in accordance with section 417(e), of the benefit under the other formula. For example, assume that the accrued benefit under a plan is determined as the sum of the accrued benefit attributable to the balance of a hypothetical account and the accrued benefit equal to the excess of the benefit under another formula over the benefit under the hypothetical account formula. In such a case, a single-sum payment of the participant's entire benefit must be no less than the sum of the then-current balance of the hypothetical account and the present value, determined in accordance with section 417(e), of the excess of the benefit under the other formula over the benefit under the hypothetical account formula.

(C) *''Lesser-of'' formulas.* If the participant's accrued benefit equals the lesser of the accrued benefit under a lump sum-based benefit formula and the accrued benefit under another formula that is not a lump-sum based benefit formula, a single-sum payment of the participant's entire benefit must be no less than the lesser of the then-current accumulated benefit under the lump sum-based benefit formula and the present value, determined in accordance with section 417(e), of the benefit under the other formula. For example, assume that the accrued benefit under a plan is determined as the accrued benefit attributable to the balance of a hypothetical account, but no greater than an accrued benefit payable at normal retirement age in the form of a straight life annuity of $100,000 per year. In such a case, a single-sum payment of the participant's entire benefit must be no less than the lesser of the then-current balance of the hypothetical account and the present value, determined in accordance with section 417(e), of a benefit payable at normal retirement age in the form of a straight life annuity of $100,000 per

year. If the formula that is not a lump sum-based benefit formula is the maximum annual benefit described in section 415(b), then the single-sum payment of the participant's entire benefit must not exceed the then-current accumulated benefit under the lump sum-based benefit formula.

* * * * *

(d) * * *

(3) *Lump sum-based benefit formula*—(i) *In general.* A lump sum-based benefit formula means a benefit formula used to determine all or any part of a participant's accumulated benefit under a defined benefit plan under which the accumulated benefit provided under the formula is expressed as the current balance of a hypothetical account maintained for the participant or as the current value of an accumulated percentage of the participant's final average compensation. A benefit formula is expressed as the current balance of a hypothetical account maintained for the participant if it is expressed as a current single-sum dollar amount equal to that balance. A benefit formula is expressed as the current value of an accumulated percentage of the participant's final average compensation if it is expressed as a current single-sum dollar amount equal to a percentage of the participant's final average compensation or, for plan years that begin on or after January 1, 2016 (or any earlier date as elected by the taxpayer), a percentage of the participant's highest average compensation (regardless of whether the plan applies a limitation on the past period for which compensation is taken into account in determining highest average compensation). Whether a benefit formula is a lump sum-based benefit formula is determined based on how the accumulated benefit of a participant is expressed under the terms of the plan, and does not depend on whether the plan provides an optional form of benefit in the form of a single-sum payment. However, for plan years that begin on or after January 1, 2016, a benefit formula does not constitute a lump sum-based benefit formula unless a distribution of the benefits under that formula in the form of a single-sum payment equals the accumulated benefit under that formula (except to the extent the single-sum payment is greater to satisfy the requirements of section 411(d)(6)). In addition, for plan years that begin on or after January 1, 2016, a benefit formula does not constitute a lump sum-based benefit formula unless the portion of the participant's accrued benefit that is determined under that formula and the then-current balance of the hypothetical account or the then-current value of the accumulated percentage of the participant's final average compensation are actuarially equivalent (determined using reasonable actuarial assumptions) either—

(A) Upon attainment of normal retirement age; or

(B) At the annuity starting date for a distribution with respect to that portion.

* * * * *

(4) * * *

(ii) *Effect similar to a lump sum-based benefit formula*—(A) *In general.* Except as provided in paragraphs (d)(4)(ii)(B) through (E) of this section, a benefit formula under a defined benefit plan that is not a lump sum-based benefit formula has an effect similar to a lump sum-based benefit formula if the formula provides that a participant's accumulated benefit is expressed as a benefit that includes the right to adjustments (including a formula that provides for indexed benefits under § 1.411(b)(5)–1(b)(2)) for a future period and the total dollar amount of those adjustments is reasonably expected to be smaller for the participant than for any similarly situated, younger individual (within the meaning of § 1.411(b)(5)–1(b)(5)) who is or could be a participant in the plan. For this purpose, the right to adjustments for a future period means, for plan years that begin on or after January 1, 2016, the right to any changes in the dollar amount of benefits over time, regardless of whether those adjustments are denominated as interest credits. A benefit formula that does not include adjustments for any future period is treated as a formula with an effect similar to a lump sum-based benefit formula if the formula would be described in this paragraph (d)(4)(ii)(A) except for the fact that the adjustments are provided pursuant to a pattern of repeated plan amendments. See § 1.411(d)–4, A–1(c)(1).

* * * * *

(C) *Exception for certain variable annuity benefit formulas.* If a variable annuity benefit formula adjusts benefits by reference to the difference between a rate of return on plan assets (or specified market indices) and a specified assumed interest rate of 5 percent or higher, then the variable annuity benefit formula is not treated as being reasonably expected to provide a smaller total dollar amount of future adjustments for the participant than for any similarly situated, younger individual who is or could be a participant in the plan, and thus such a variable annuity benefit formula does not have an effect similar to a lump sum-based benefit formula. For plan years that begin on or after January 1, 2016 (or any earlier date as elected by the taxpayer), the rate of return on plan assets (or specified market index) by reference to which the benefit formula adjusts must be a rate of return described in § 1.411(b)(5)–1(d)(5) (which includes, in the case of a benefit formula determined with reference to an annuity contract for an employee issued by an insurance company licensed under the laws of a State, the rate of return on the market index specified under that contract).

* * * * *

(E) *Exception for certain actuarial reductions for early commencement under traditional formula.* A defined benefit formula is not treated as having an effect similar to a lump sum-based benefit formula with respect to a participant merely because the formula provides for a reduction in the benefit payable at early retirement due to early commencement (with the result that the benefit payable at normal retirement age is greater than the benefit payable at early retirement), provided that the benefit payable at normal retirement age to the participant cannot be less than the benefit payable at normal retirement age to any similarly situated, younger individual who is or could be a participant in the plan. Thus, for example, a plan that provides a benefit equal to 1 percent of final average pay per year of service, payable as a life annuity at normal retirement age, is not treated as having an effect similar to a lump sum-based benefit formula by reason of an actuarial reduction in the benefit payable under the plan for early commencement.

* * * * *

(6) *Variable annuity benefit formula.* A variable annuity benefit formula means any benefit formula under a defined benefit plan which provides that the amount payable is periodically adjusted by reference to the difference between a rate of return and a specified assumed interest rate.

* * * * *

(e) * * *

(2) * * *

(ii) *Special effective date.* Paragraphs (b)(2), (b)(3) and (b)(4) of this section apply to plan years that begin on or after January 1, 2016.

* * * * *

■ **Par. 3.** Section 1.411(b)–1 is amended by adding paragraph (b)(2)(ii)(G) and adding and reserving paragraph (b)(2)(ii)(H) to read as follows:

§ 1.411(b)–1 Accrued benefit requirements.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(G) *Variable interest crediting rate under a statutory hybrid benefit formula.* For plan years that begin on or after January 1, 2012 (or an earlier date as elected by the taxpayer), a plan that determines any portion of the participant's accrued benefit pursuant to a statutory hybrid benefit formula (as defined in § 1.411(a)(13)–1(d)(4)) that utilizes an interest crediting rate described in § 1.411(b)(5)–1(d) that is a variable rate that was less than zero for the prior plan year is not treated as failing to satisfy the requirements of paragraph (b)(2) of this section for the current plan year merely because the plan assumes for purposes of paragraph (b)(2) of this section that the variable rate is zero for the current plan year and all future plan years.

(H) *Special rule for multiple formulas.* [Reserved]

* * * * *

■ **Par. 4.** Section 1.411(b)(5)–1 is amended by:

■ 1. Revising paragraphs (b)(1)(i)(B), (b)(1)(i)(C), (b)(1)(ii), (b)(1)(iii), and (b)(2)(i).

■ 2. Revising paragraph (c)(3)(i).

■ 3. Removing paragraph (c)(3)(iii).

■ 4. Adding *Example 8* to paragraph (c)(5).

■ 5. Revising paragraphs (d)(1)(iv)(D), (d)(2)(i), (d)(2)(ii), (d)(3), (d)(4)(ii), (d)(4)(iv), (d)(5)(ii), (d)(5)(iv), (d)(6)(ii), (d)(6)(iii), (e)(2), (e)(3)(ii)(B), (e)(3)(ii)(C), (e)(3)(iii), (e)(4), and (f)(2)(i)(B).

■ 6. Adding paragraphs (d)(1)(viii), (d)(4)(v), (e)(3)(ii)(D), (e)(3)(iv), (e)(3)(v), and (e)(5).

■ 7. Revising the last sentence of paragraph (d)(1)(v).

■ 8. Revising the first and fourth sentences of paragraph (e)(3)(i).

The revisions and additions read as follows:

§ 1.411(b)(5)–1 Reduction in rate of benefit accrual under a defined benefit plan.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(B) The current balance of a hypothetical account maintained for the participant if the accumulated benefit of the participant is the current balance of a hypothetical account.

(C) The current value of an accumulated percentage of the participant's final average compensation if the accumulated benefit of the participant is the current value of an accumulated percentage of the participant's final average compensation.

(ii) *Benefit formulas for comparison*—(A) *In general.* Except as provided in paragraphs (b)(1)(ii)(B), (C), (D) and (E) of this section, the safe harbor provided by section 411(b)(5)(A) and paragraph (b)(1)(i) of this section is available only with respect to a participant if the participant's accumulated benefit under the plan is expressed in terms of only one safe-harbor formula measure and no similarly situated, younger individual who is or could be a participant has an accumulated benefit that is expressed in terms of any measure other than that same safe-harbor formula measure. Thus, for example, if a plan provides that the accumulated benefit of participants who are age 55 or older is expressed under the terms of the plan as a life annuity payable at normal retirement age (or current age if later) as described in paragraph (b)(1)(i)(A) of this section and the plan provides that the accumulated benefit of participants who are younger than age 55 is expressed as the current balance of a hypothetical account as described in paragraph (b)(1)(i)(B) of this section, then the safe harbor described in section 411(b)(5)(A) and paragraph (b)(1)(i) of this section does not apply to individuals who are or could be participants and who are age 55 or older.

(B) *Sum-of benefit formulas.* If a plan provides that a participant's accumulated benefit is expressed as the sum of benefits determined in terms of two or more benefit formulas, each of which is expressed in terms of a different safe-harbor formula measure, then the plan is deemed to satisfy paragraph (b)(1)(i) of this section with respect to the participant, provided that the plan satisfies the comparison described in paragraph (b)(1)(i) of this section separately for benefits determined in terms of each safe-harbor formula measure and no accumulated benefit of a similarly situated, younger individual who is or could be a participant is expressed other than as—

(*1*) The sum of benefits under two or more benefit formulas, each of which is expressed in terms of one of those same safe-harbor formula measures as is used for the participant's ''sum-of'' benefit;

(*2*) The greater of benefits under two or more benefit formulas, each of which is expressed in terms of any one of those same safe-harbor formula measures;

(*3*) The choice of benefits under two or more benefit formulas, each of which is expressed in terms of any one of those same safe-harbor formula measures;

(*4*) A benefit that is determined in terms of only one of those same safe-harbor formula measures; or

(*5*) The lesser of benefits under two or more benefit formulas, at least one of which is expressed in terms of one of those same safe-harbor formula measures.

(C) *Greater-of benefit formulas.* If a plan provides that a participant's accumulated benefit is expressed as the greater of benefits under two or more benefit formulas, each of which is determined in terms of a different safe-harbor formula measure, then the plan is deemed to satisfy paragraph (b)(1)(i) of this section with respect to the participant, provided that the plan satisfies the comparison described in paragraph (b)(1)(i) of this section separately for benefits determined in terms of each safe-harbor formula measure and no accumulated benefit of a similarly situated, younger individual who is or could be a participant is expressed other than as—

(*1*) The greater of benefits determined under two or more benefit formulas, each of which is expressed in terms of one of those same safe-harbor formula measures as is used for the participant's ''greater-of'' benefit;

(*2*) The choice of benefits determined under two or more benefit formulas, each of which is expressed in terms of one of those same safe-harbor formula measures;

(*3*) A benefit that is determined in terms of only one of those same safe-harbor formula measures; or

(*4*) The lesser of benefits under two or more benefit formulas, at least one of which is expressed in terms of one of those same safe-harbor formula measures.

(D) *Choice-of benefit formulas.* If a plan provides that a participant's accumulated benefit is determined pursuant to a choice by the participant between benefits determined in terms of two or more different safe-harbor formula measures, then the plan is deemed to satisfy paragraph (b)(1)(i) of this section with respect to the participant, provided that the plan satisfies the comparison described in paragraph (b)(1)(i) of this section separately for benefits determined in terms of each safe-harbor formula measure and no accumulated benefit of a similarly situated, younger individual who is or could be a participant is expressed other than as—

(*1*) The choice of benefits determined under two or more benefit formulas, each of which is expressed in terms of one of those same safe-harbor formula measures as is used for the participant's ''choice-of'' benefit;

(*2*) A benefit that is determined in terms of only one of those same safe-harbor formula measures; or

(*3*) The lesser of benefits under two or more benefit formulas, at least one of which is expressed in terms of one of those same safe-harbor formula measures.

(E) *Lesser-of benefit formulas.* If a plan provides that a participant's accumulated benefit is expressed as a single safe-harbor formula measure and no accumulated benefit of a similarly situated, younger individual who is or could be a participant is expressed other than as a benefit that is determined under the same safe-harbor formula measure or as the lesser of benefits under two or more benefit formulas, at least one of which is expressed in terms of the same safe-harbor formula measure, then the plan is deemed to satisfy paragraph (b)(1)(i) of this section with respect to the participant only if the plan satisfies the comparison described in paragraph (b)(1)(i) of this section for benefits determined in terms of the same safe-harbor formula measure. Similarly, if a plan provides that a participant's accumulated benefit is expressed as the lesser of benefits under two or more benefit formulas, each of which is determined in terms of a different safe-harbor formula measure, then the plan is deemed to satisfy paragraph (b)(1)(i) of this section with respect to the participant only if the plan satisfies the comparison described in paragraph (b)(1)(i) of this section separately for benefits determined in terms of each safe-harbor formula measure and no accumulated benefit of a similarly situated, younger individual who is or could be a participant is expressed other than as the lesser of benefits under two or more benefit formulas, expressed in terms of all of those same safe-harbor formula measures (and any other additional formula measures).

(F) *Limitations on plan formulas that provide for hypothetical accounts or accumulated percentages of final average compensation.* For plan years that begin on or after January 1, 2016, a benefit measure is a safe harbor formula measure described in paragraph (b)(1)(i)(B) or (C) of this section only if the formula under which the balance of a hypothetical account or the accumulated percentage of final average compensation is determined is a lump-sum based benefit formula.

(iii) *Disregard of certain subsidized benefits.* For purposes of paragraph (b)(1)(i) of this section, any subsidized portion of an early retirement benefit that is included in a participant's accumulated benefit is disregarded. For this purpose, an early retirement benefit includes a subsidized portion only if it provides a higher actuarial present value on account of commencement before normal retirement age. However, for plan years that begin on or after January 1, 2016, if the annual benefit payable before normal retirement age is greater for a participant than the annual benefit under the corresponding form of benefit for any similarly situated, older individual who is or could be a participant and who is currently at or before normal retirement age, then that excess is not part of the subsidized portion of an early retirement benefit and, accordingly, is not disregarded under this paragraph (b)(1)(iii). For purposes of determining whether the annual benefit payable before normal retirement age is greater for a participant than the annual benefit under the corresponding form of benefit for any similarly situated, older individual who is or could be a participant, social security leveling options and social security supplements are disregarded. In addition, a plan is not treated as providing a greater annual benefit to a participant than to a similarly situated, older individual who is or could be a participant merely because the reduction (based on actuarial equivalence, using reasonable actuarial assumptions) in the amount of an annuity to reflect a survivor benefit is smaller for the participant than for a similarly situated, older individual who is or could be a participant.

* * * * *

(2) *Indexed benefits*—(i) *In general.* Except as provided in paragraph (b)(2)(iii) of this section, pursuant to section 411(b)(5)(E) and this paragraph (b)(2)(i), a defined benefit plan is not treated as failing to meet the requirements of section 411(b)(1)(H) with respect to a participant solely because a benefit formula (other than a lump sum-based benefit formula) under the plan provides for the periodic adjustment of the participant's accrued benefit under the plan by means of the application of a recognized index or methodology. An indexing rate that does not exceed a market rate of return, as defined in paragraph (d) of this section, is deemed to be a recognized index or methodology for purposes of the preceding sentence. In addition, for plan years that begin on or after January 1, 2016 (or an earlier date as elected by the taxpayer), any subsidized portion of any early retirement benefit under such a plan that meets the requirements of paragraph (b)(1)(iii) is disregarded in determining whether the plan meets the requirements of section 411(b)(1)(H). However, such a plan must satisfy the qualification requirements otherwise applicable to statutory hybrid plans, including the requirements of § 1.411(a)(13)–1(c) (relating to minimum vesting standards) and paragraph (c) of this section (relating to plan conversion amendments) if the plan has an effect similar to a lump sum-based benefit formula, pursuant to the rules of § 1.411(a)(13)–1(d)(4)(ii).

* * * * *

(c) * * *

(3) * * * (i) * * * Provided that the requirements of paragraph (c)(3)(ii) of this section are satisfied, a statutory hybrid plan under which an opening hypothetical account balance or opening accumulated percentage of the participant's final average compensation is established as of the effective date of the conversion amendment does not fail to satisfy the requirements of paragraph (c)(2) of this section merely because benefits attributable to that opening hypothetical account balance or opening accumulated percentage (that is, benefits that are not described in paragraph (c)(2)(i)(B) of this section) are substituted for benefits described in paragraph (c)(2)(i)(A) of this section.

* * * * *

(5) * * *

Example 8. (i) *Facts involving establishment of opening hypothetical account balance.* A defined benefit plan provides an accrued benefit expressed as a straight life annuity commencing at the plan's normal retirement age (age 65), based on a percentage of average annual compensation multiplied by the participant's years of service. On January 1, 2009, a conversion amendment is adopted that converts the plan to a statutory hybrid plan. Participant A, age 55, had an accrued benefit under the pre-conversion formula of $1,500 per month payable at normal retirement age. In conjunction with this conversion, the plan provides each participant with an opening hypothetical account balance equal to the present value, determined in accordance with section 417(e)(3) of the participant's pre-conversion benefit. Participant A's opening hypothetical account balance was calculated as $121,146. The opening account balance (along with any subsequent amounts credited to the hypothetical account) is credited annually with interest credits at the rate of 5.0 percent up to the annuity starting date of each participant.

(ii) *Facts relating to changes between establishment of opening hypothetical account balance and age 65.* Upon attainment of age 65, Participant A elects to receive Participant A's entire benefit under the plan as a single sum distribution. At the annuity starting date, Participant A's hypothetical account balance attributable to Participant A's opening account balance has increased to $197,334. However, under the terms of the plan and in accordance with section 417(e)(3), the present value at the

annuity starting date of Participant A's pre-conversion benefit of $1,500 per month is $221,383.

(iii) *Conclusion.* Pursuant to paragraph (c)(3)(ii)(A) of this section, Participant A must receive the benefit attributable to post-conversion service, plus the greater of the benefit attributable to the opening hypothetical account balance and the pre-conversion benefit (with the determination as to which is greater made at the annuity starting date). Accordingly the single-sum distribution must equal the benefit attributable to post-conversion service plus $221,383.

* * * * *

(d) * * *

(1) * * *

(iv) * * *

(D) *Debits and credits during the interest crediting period.* A plan is not treated as failing to meet the requirements of this paragraph (d) merely because the plan does not provide for interest credits on amounts distributed prior to the end of the interest crediting period. Furthermore, a plan is not treated as failing to meet the requirements of this paragraph (d) merely because the plan calculates increases or decreases to the participant's accumulated benefit by applying a rate of interest or rate of return (including a rate of increase or decrease under an index) to the participant's adjusted accumulated benefit (or portion thereof) for the period. For this purpose, the participant's adjusted accumulated benefit equals the participant's accumulated benefit as of the beginning of the period, adjusted for debits and credits (other than interest credits) made to the accumulated benefit prior to the end of the interest crediting period, with appropriate weighting for those debits and credits based on their timing within the period. For plans that calculate increases or decreases to the participant's accumulated benefit by applying a rate of interest or rate of return to the participant's adjusted accumulated benefit (or portion thereof) for the period, interest credits include these increases and decreases, to the extent provided under the terms of the plan at the beginning of the period and to the extent not conditioned on current service and not made on account of imputed service (as defined in § 1.401(a)(4)–11(d)(3)(ii)(B)), and the interest crediting rate with respect to a participant equals the total amount of interest credits for the period divided by the participant's adjusted accumulated benefit for the period.

* * * * *

(v) * * * Similarly, an interest crediting rate that always equals the lesser of the yield on 30-year Treasury Constant Maturities and a fixed 7 percent interest rate is not in excess of a market rate of return because it can never be in excess of the yield on 30-year Treasury Constant Maturities.

* * * * *

(viii) *Increases to existing rates and addition of other rates*—(A) *Increases to existing rates.* The Commissioner may, in guidance published in the Internal Revenue Bulletin, see § 601.601(d)(2)(ii)(*b*) of this chapter, increase an interest crediting rate set forth in this paragraph (d), so that the increased rate is treated as satisfying the requirement that the rate not exceed a market rate of return for purposes of this paragraph (d) and section 411(b)(5)(B). For this purpose, these increases can include increases to the maximum permitted margin that can be added to one or more of the safe harbor rates set forth in paragraph (d)(4) of this section, increases to the maximum permitted fixed rate set forth in paragraph (d)(4)(v) of this section, or increases to a maximum permitted annual floor set forth in paragraph (d)(6) of this section.

(B) *Additional rates.* The Commissioner may, in guidance published in the Internal Revenue Bulletin, see § 601.601(d)(2)(ii)(*b*) of this chapter, provide for additional interest crediting rates that satisfy the requirement that they not exceed a market rate of return for purposes of this paragraph (d) and section 411(b)(5)(B) (including providing for additional combinations of rates, such as annual minimums in conjunction with rates that are based on rates described in paragraph (d)(5) of this section but that are reduced in order to ensure that the effective rate of return does not exceed a market rate of return).

* * * * *

(2) *Preservation of capital requirement*—(i) *General rule.* A statutory hybrid plan satisfies the requirements of section 411(b)(1)(H) only if the plan provides that the participant's benefit under the statutory hybrid benefit formula determined as of the participant's annuity starting date is no less than the benefit determined as if the accumulated benefit were equal to the sum of all principal credits (as described in paragraph (d)(1)(ii)(D) of this section) credited under the plan to the participant as of that date (including principal credits that were credited before the applicable statutory effective date of paragraph (f)(1) of this section). This paragraph (d)(2) applies only as of an annuity starting date, within the meaning of § 1.401(a)–20, A–10(b), with respect to which a distribution of the participant's entire vested benefit under the plan's statutory hybrid benefit formula as of that date commences. For a participant who has more than one annuity starting date, paragraph (d)(2)(ii) of this section provides rules to account for prior annuity starting dates when applying this paragraph (d)(2)(i).

(ii) *Application to multiple annuity starting dates*—(A) *In general.* If the comparison under paragraph (d)(2)(ii)(B) of this section results in the sum of all principal credits credited to the participant (as of the current annuity starting date) exceeding the sum of the amounts described in paragraphs (d)(2)(ii)(B)(*1*) through (d)(2)(ii)(B)(*3*) of this section, then the participant's benefit to be distributed at the current annuity starting date must be no less than would be provided if that excess were included in the current accumulated benefit.

(B) *Comparison to reflect prior distributions.* For a participant who has more than one annuity starting date, the sum of all principal credits credited to the participant under the plan, as of the current annuity starting date, is compared to the sum of—

(*1*) The remaining balance of the participant's accumulated benefit as of the current annuity starting date;

(*2*) The amount of the reduction to the participant's accumulated benefit under the statutory hybrid benefit formula that is attributable to any prior distribution of the participant's benefit under that formula; and

(*3*) Any amount that was treated as included in the accumulated benefit under the rules of this paragraph (d)(2) as of any prior annuity starting date.

(C) *Special rule for participants with 5 or more breaks in service.* A plan is permitted to provide that, in the case of a participant who receives a distribution of the entire vested benefit under the plan and thereafter completes 5 consecutive 1-year breaks in service, as defined in section 411(a)(6)(A), the rules of this paragraph (d)(2) are applied without regard to the prior period of service. Thus, in the case of such a participant, the plan is permitted to provide that the rules of this paragraph (d)(2) are applied disregarding the principal credits and distributions that occurred before the breaks in service.

* * * * *

(3) *Long-term investment grade corporate bonds.* For purposes of this paragraph (d), the rate of interest on long-term investment grade corporate bonds means the third segment rate described in section 417(e)(3)(D) or 430(h)(2)(C)(iii) (determined with or without regard to section 430(h)(2)(C)(iv) and with or without

regard to the transition rules of section 417(e)(3)(D)(ii) or 430(h)(2)(G)). However, for plan years beginning prior to January 1, 2008, the rate of interest on long-term investment grade corporate bonds means the rate described in section 412(b)(5)(B)(ii)(II) prior to amendment by the Pension Protection Act of 2006, Public Law 109–280 (120 Stat. 780 (2006)) (PPA '06).

(4) * * *

(ii) *Rates based on government bonds with margins.* An interest crediting rate is deemed to be not in excess of the interest rate described in paragraph (d)(3) of this section if the rate is equal to the sum of any of the following rates of interest for bonds and the associated margin for that interest rate:

Interest rate bond index	Associated margin
The discount rate on 3-month Treasury Bills	175 basis points.
The discount rate on 12-month or shorter Treasury Bills	150 basis points.
The yield on 1-year Treasury Constant Maturities	100 basis points.
The yield on 3-year or shorter Treasury Constant Maturities	50 basis points.
The yield on 7-year or shorter Treasury Constant Maturities	25 basis points.
The yield on 30-year or shorter Treasury Constant Maturities	0 basis points.

* * * * *

(iv) *Short and mid-term investment grade corporate bonds.* An interest crediting rate equal to the first segment rate is deemed to be not in excess of the interest rate described in paragraph (d)(3) of this section. Similarly, an interest crediting rate equal to the second segment rate is deemed to be not in excess of the interest rate described in paragraph (d)(3) of this section. For this purpose, the first and second segment rates mean the first and second segment rates described in section 417(e)(3)(D) or 430(h)(2)(C), determined with or without regard to section 430(h)(2)(C)(iv) and with or without regard to the transition rules of section 417(e)(3)(D)(ii) or 430(h)(2)(G).

(v) *Fixed rate of interest.* An annual interest crediting rate equal to a fixed 6 percent is deemed to be not in excess of the interest rate described in paragraph (d)(3) of this section.

(5) * * *

(ii) *Actual rate of return on plan assets*—(A) *In general.* An interest crediting rate equal to the actual rate of return on the aggregate assets of the plan, including both positive returns and negative returns, is not in excess of a market rate of return if the plan's assets are diversified so as to minimize the volatility of returns. This requirement that plan assets be diversified so as to minimize the volatility of returns does not require greater diversification than is required under section 404(a)(1)(C) of Title I of the Employee Retirement Income Security Act of 1974, Public Law 93–406 (88 Stat. 829 (1974)), as amended (ERISA), with respect to defined benefit pension plans.

(B) *Subset of plan assets.* An interest crediting rate equal to the actual rate of return on the assets within a specified subset of plan assets, including both positive and negative returns, is not in excess of a market rate of return if—

(*1*) The subset of plan assets is diversified so as to minimize the volatility of returns, within the meaning of paragraph (d)(5)(ii)(A) of this section (thus, this requirement is satisfied if the subset of plan assets is diversified such that it would meet the requirements of paragraph (d)(5)(ii)(A) of this section if the subset were aggregate plan assets);

(*2*) The aggregate fair market value of qualifying employer securities and qualifying employer real property (within the meaning of section 407 of ERISA) held in the subset of plan assets does not exceed 10 percent of the fair market value of the aggregate assets in the subset; and

(*3*) The fair market value of the assets within the subset of plan assets approximates the liabilities for benefits that are adjusted by reference to the rate of return on the assets within the subset, determined using reasonable actuarial assumptions.

(C) *Examples.* The following examples illustrate the application of paragraph (d)(5)(ii)(B) of this section:

Example 1. (i) *Facts.* (a) Employer A sponsors a defined benefit plan under which benefit accruals are determined under a formula that is not a statutory hybrid benefit formula. Effective January 1, 2015, the plan is amended to cease future accruals under the existing formula and to provide future benefit accruals under a statutory hybrid benefit formula that uses hypothetical accounts. For service on or after January 1, 2015, the terms of the plan provide that each participant's hypothetical account balance is credited monthly with a pay credit equal to a specified percentage of the participant's compensation during the month. The plan also provides that hypothetical account balance is increased or decreased by an interest credit, which is calculated as the product of the account balance at the beginning of the period and the net rate of return on the assets within a specified subset of plan assets during that period. Under the terms of the plan, the net rate of return is equal to the actual rate of return adjusted to reflect a reduction for specified plan expenses. The plan does not provide for interest credits on amounts that are distributed prior to the end of an interest crediting period.

(b) As of the effective date of the amendment, there are no assets in the specified subset of plan assets. Under the terms of the plan, an amount is added to the specified subset at the time each subsequent contribution for any plan year starting on or after the effective date of the amendment is made to the plan. The amount added (the formula contribution) is the amount deemed necessary to fund benefit accruals under the statutory hybrid benefit formula. Investment of the specified subset is diversified so as to minimize the volatility of returns, within the meaning of paragraph (d)(5)(ii)(A) of this section, and no qualifying employer securities or qualifying employer real property (within the meaning of section 407 of ERISA) are held in the subset. Benefits accrued under the statutory hybrid benefit formula are paid from the specified subset. However, if assets of the specified subset are insufficient to pay benefits accrued under the statutory hybrid benefit formula, the plan provides that assets of the residual legacy subset of plan assets (from which benefits accrued before January 1, 2015 are paid) are available to pay those benefits in accordance with the requirement that all assets of the plan be available to pay all plan benefits. Except as described in this paragraph, no other amounts are added to or subtracted from the specified subset of plan assets.

(c) The formula contribution for each plan year that is added to the specified subset of plan assets is an amount equal to the sum of the target normal cost of the statutory hybrid benefit formula for the plan year plus an additional amount intended to reflect gains or losses. This additional amount is equal to the annual amount necessary to amortize the difference between the funding target attributable to the statutory hybrid benefit formula portion of the plan for the plan year over the value of plan assets included in the specified subset of plan assets for the plan year in level annual installments over a 7-year period. For this purpose, target normal cost and funding target are determined under the rules of § 1.430(d)–1 as if the statutory hybrid benefit formula portion of the plan were the entire plan and without regard to special rules that are applicable to a plan in at-risk status, even if the plan is in at-risk status for a plan year. If the formula contribution for a plan year exceeds the

amount of the actual contribution to the plan for a year (such as could be the case if all or a portion of the contribution is offset by all or a portion of the plan's prefunding balance), then an amount equal to the excess of the formula contribution over the actual contribution is transferred from the residual legacy subset of plan assets to the specified subset of plan assets on the plan's due date for the minimum required contribution for the year.

(ii) *Conclusion.* The specified subset is diversified so as to minimize the volatility of returns (within the meaning of paragraph (d)(5)(ii)(A) of this section). The aggregate fair market value of qualifying employer securities and qualifying employer real property (within the meaning of section 407 of ERISA) held in the specified subset do not exceed 10 percent of the fair market value of the aggregate assets in the subset. The fair market value of the assets within the specified subset of plan assets approximates the liabilities for benefits that are adjusted by reference to the rate of return on the assets within the subset, determined using reasonable actuarial assumptions, within the meaning of paragraph (d)(5)(ii)(B)(*3*) of this section. Therefore, the interest crediting rate under the statutory hybrid benefit formula portion of Employer A's defined benefit plan is not in excess of a market rate of return.

Example 2. (i) *Facts.* (a) Pursuant to a collective bargaining agreement, Employer X, Employer Y and Employer Z maintain and contribute to a multiemployer plan (as defined in section 414(f)) that is established as of January 1, 2015 under which benefit accruals are determined under a variable annuity benefit formula. The plan provides that, on an annual basis, the benefit of each participant who has not yet retired is adjusted by reference to the difference between the actual return on the assets within a specified subset of plan assets and 4 percent. A participant's benefits are fixed at retirement and thereafter are not adjusted.

(b) As of the effective date of the plan, there are no assets in the specified subset. Under the terms of the plan, any amount contributed to the plan by a contributing employer is added to the specified subset at the time of the contribution. Investment of the specified subset is diversified so as to minimize the volatility of returns, within the meaning of paragraph (d)(5)(ii)(A) of this section, and no qualifying employer securities or qualifying employer real property (within the meaning of section 407 of ERISA) are held in the subset. The plan provides that, at the time of a participant's retirement, an amount equal to the present value of the liability for benefits payable to that participant is transferred to a separate subset of plan assets (the retiree pool). The retiree pool is invested in high-quality bonds in an attempt to achieve cash-flow matching of the retiree liabilities. Benefits are paid from the retiree pool. However, if assets of the retiree pool are insufficient to pay benefits, the plan provides that assets of the specified subset are available to pay benefits in accordance with the requirement that all assets of the plan be available to pay all plan benefits. Except as described in this paragraph, no other amounts are added to or subtracted from the specified subset of plan assets.

(ii) *Conclusion.* The specified subset is diversified so as to minimize the volatility of returns (within the meaning of paragraph (d)(5)(ii)(A) of this section). The aggregate fair market value of qualifying employer securities and qualifying employer real property (within the meaning of section 407 of ERISA) held in the specified subset do not exceed 10 percent of the fair market value of the aggregate assets in the subset. The fair market value of the assets within the specified subset of plan assets approximates the liabilities for benefits that are adjusted by reference to the rate of return on the assets within the subset, determined using reasonable actuarial assumptions, within the meaning of paragraph (d)(5)(ii)(B)(*3*) of this section. Therefore, the methodology used to adjust participant benefits under the plan's variable annuity benefit formula, which is a statutory hybrid benefit formula under § 1.411(a)(13)–1(d)(4), is not in excess of a market rate of return.

* * * * *

(iv) *Rate of return on certain RICs.* An interest crediting rate is not in excess of a market rate of return if it is equal to the rate of return on a regulated investment company (RIC), as defined in section 851, that is reasonably expected to be not significantly more volatile than the broad United States equities market or a similarly broad international equities market. For example, a RIC that has most of its assets invested in securities of issuers (including other RICs) concentrated in an industry sector or a country other than the United States generally would not meet this requirement. Likewise a RIC that uses leverage, or that has significant investment in derivative financial products, for the purpose of achieving returns that amplify the returns of an unleveraged investment, generally would not meet this requirement. Thus, a RIC that has most of its investments concentrated in the semiconductor industry or that uses leverage in order to provide a rate of return that is twice the rate of return on the Standard & Poor's 500 index (S&P 500) would not meet this requirement. On the other hand, a RIC with investments that track the rate of return on the S&P 500, a broad-based ''small-cap'' index (such as the Russell 2000 index), or a broad-based international equities index would meet this requirement.

(6) * * *

(ii) *Annual or more frequent floor*—(A) *Application to segment rates.* An interest crediting rate under a plan does not fail to be described in paragraph (d)(3) or (d)(4)(iv) of this section for an interest crediting period merely because the plan provides that the interest crediting rate for that interest crediting period equals the greater of—

(*1*) An interest crediting rate described in paragraph (d)(3) or (d)(4)(iv) of this section; and

(*2*) An annual interest rate of 4 percent or less (or a pro rata portion of an annual interest rate of 4 percent or less for plans that provide interest credits more frequently than annually).

(B) *Application to other bond-based rates.* An interest crediting rate under a plan does not fail to be described in paragraph (d)(4) of this section for an interest crediting period merely because the plan provides that the interest crediting rate for that interest crediting period equals the greater of—

(*1*) An interest crediting rate described in paragraph (d)(4)(ii) or (d)(4)(iii) of this section; and

(*2*) An annual interest rate of 5 percent or less (or a pro rata portion of an annual interest rate of 5 percent or less for plans that provide interest credits more frequently than annually).

(iii) *Cumulative floor applied to investment-based or bond-based rates*—(A) *In general.* A plan that determines interest credits under a statutory hybrid benefit formula using a particular interest crediting rate described in paragraph (d)(3), (d)(4), or (d)(5) of this section (or an interest crediting rate that can never be in excess of a particular interest crediting rate described in paragraph (d)(3), (d)(4) or (d)(5) of this section) does not provide an effective interest crediting rate in excess of a market rate of return merely because the plan provides that the participant's benefit under the statutory hybrid benefit formula determined as of the participant's annuity starting date is equal to the benefit determined as if the accumulated benefit were equal to the greater of—

(*1*) The accumulated benefit determined using the interest crediting rate; and

(*2*) The accumulated benefit determined as if the plan had used a fixed annual interest crediting rate equal to 3 percent (or a lower rate) for all principal credits that are credited under the plan to the participant during the guarantee period (minimum guarantee amount).

(B) *Guarantee period defined.* The guarantee period is the prospective period that begins on the date the cumulative floor described in this paragraph (d)(6)(iii) begins to apply to the participant's benefit and that ends on the date on which that cumulative floor ceases to apply to the participant's benefit.

(C) *Application to multiple annuity starting dates.* The determination under

this paragraph (d)(6)(iii) is made only as of an annuity starting date, within the meaning of § 1.401(a)–20, A–10(b), with respect to which a distribution of the participant's entire vested benefit under the plan's statutory hybrid benefit formula as of that date commences. For a participant who has more than one annuity starting date, paragraph (d)(6)(iii)(D) of this section provides rules to account for prior annuity starting dates when applying paragraph (d)(6)(iii)(A) of this section. If the comparison under paragraph (d)(6)(iii)(D) of this section results in the minimum guarantee amount exceeding the sum of the amounts described in paragraphs (d)(6)(iii)(D)(*1*) through (d)(6)(iii)(D)(*3*) of this section, then the participant's benefit to be distributed at the current annuity starting date must be no less than would be provided if that excess were included in the current accumulated benefit.

(D) *Comparison to reflect prior distributions.* For a participant who has more than one annuity starting date, the minimum guarantee amount (described in paragraph (d)(6)(iii)(A)(*2*) of this section), as of the current annuity starting date, is compared to the sum of—

(*1*) The remaining balance of the participant's accumulated benefit, as of the current annuity starting date, to which a minimum guaranteed rate described in paragraph (d)(6)(iii)(A)(*2*) of this section applies;

(*2*) The amount of the reduction to the participant's accumulated benefit under the statutory hybrid benefit formula that is attributable to any prior distribution of the participant's benefit under that formula and to which a minimum guaranteed rate described in paragraph (d)(6)(iii)(A)(*2*) of this section applied, together with interest at that minimum guaranteed rate annually from the prior annuity starting date to the current annuity starting date; and

(*3*) Any amount that was treated as included in the accumulated benefit under the rules of this paragraph (d)(6)(iii) as of any prior annuity starting date, together with interest annually at the minimum guaranteed rate that applied to the prior distribution from the prior annuity starting date to the current annuity starting date.

(E) *Application to portion of participant's benefit.* A cumulative floor described in this paragraph (d)(6)(iii) may be applied to a portion of a participant's benefit, provided the requirements of this paragraph (d)(6)(iii) are satisfied with respect to that portion of the benefit. If a cumulative floor described in this paragraph (d)(6)(iii) applies to a portion of a participant's benefit, only the principal credits that are attributable to that portion of the participant's benefit are taken into account in determining the amount of the guarantee described in paragraph (d)(6)(iii)(A)(*2*) of this section.

(e) * * *

(2) *Plan termination*—(i) *In general.* This paragraph (e)(2) provides special rules that apply for purposes of determining certain plan factors under a statutory hybrid benefit formula after the plan termination date of a statutory hybrid plan. The terms of a statutory hybrid plan must reflect the requirements of this paragraph (e)(2). Paragraph (e)(2)(ii) of this section sets forth rules relating to the interest crediting rate for interest crediting periods that end after the plan termination date. Paragraph (e)(2)(iii) of this section sets forth rules for converting a participant's accumulated benefit to an annuity after the plan termination date. Paragraph (e)(2)(iv) of this section sets forth rules of application. Paragraph (e)(2)(v) of this section contains examples. The Commissioner may, in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin, provide for additional rules that apply for purposes of this paragraph (e)(2) and the plan termination provisions of section 411(b)(5)(B)(vi). See § 601.601(d)(2)(ii)(*b*) of this chapter. See also regulations of the Pension Benefit Guaranty Corporation for additional rules that apply when a pension plan subject to Title IV of ERISA is terminated.

(ii) *Interest crediting rates used to determine accumulated benefits*—(A) *General rule.* The interest crediting rate used under the plan to determine a participant's accumulated benefit for interest crediting periods that end after the plan termination date must be equal to the average of the interest rates used under the plan during the 5-year period ending on the plan termination date. Except as otherwise provided in this paragraph (e)(2)(ii), the actual annual interest rate (taking into account minimums, maximums, and other adjustments) used to determine interest credits under the plan for each of the interest crediting periods is used for purposes of determining the average of the interest rates.

(B) *Special rule for variable interest crediting rates that are other rates of return*—(*1*) *Application to interest crediting periods.* This paragraph (e)(2)(ii)(B) applies for an interest crediting period if the interest crediting rate that was used for that interest crediting period was a rate of return described in paragraph (d)(5) of this section. This paragraph (e)(2)(ii)(B) also applies for an interest crediting period that begins before the first plan year that begins on or after January 1, 2016, if the interest crediting rate that was used for that interest crediting period had the potential to be negative. For this purpose, a rate is not treated as having the potential to be negative if it is a rate described in paragraph (d)(3) or (d)(4) of this section or is any other rate that is based solely on current bond yields.

(*2*) *Use of substitution rate.* For any interest crediting period to which this paragraph (e)(2)(ii)(B) applies, for purposes of determining the average of the interest rates under this paragraph (e)(2)(ii), the interest rate used under the plan for the interest crediting period is deemed to be equal to the substitution rate (as described in paragraph (e)(2)(ii)(C) of this section) for the period.

(C) *Definition of substitution rate.* The substitution rate for any interest crediting period equals the second segment rate under section 430(h)(2)(C)(ii) (determined without regard to section 430(h)(2)(C)(iv)) for the last calendar month ending before the beginning of the interest crediting period, as adjusted to account for any minimums or maximums that applied in the period (other than cumulative floors under paragraph (d)(6)(iii) of this section), but without regard to other reductions that applied in the period. Thus, for example, if the actual interest crediting rate in an interest crediting period is equal to the rate of return on plan assets, but not greater than 5 percent, then the substitution rate for that interest crediting period is equal to the lesser of the applicable second segment rate for the period and 5 percent. However, if the actual interest crediting rate for an interest crediting period is equal to the rate of return on plan assets minus 200 basis points, then the substitution rate for that interest crediting period is equal to the applicable second segment rate for the period.

(D) *Cumulative floors.* Cumulative floors under paragraph (d)(6)(iii) of this section that applied during the 5-year period ending on the plan termination date are not taken into account for purposes of determining the average of the interest rates under this paragraph (e)(2)(ii). However, the rules of paragraph (d)(6)(iii) of this section continue to apply to determine benefits as of annuity starting dates on or after the plan termination date. Thus, if, as of an annuity starting date on or after the plan termination date, the benefit provided by applying an applicable cumulative minimum rate under

paragraph (d)(6)(iii)(A)(*2*) of this section exceeds the benefit determined by applying interest credits to the participant's accumulated benefit (with interest credits for interest crediting periods that end after the plan termination date determined under this paragraph (e)(2)), then that cumulative minimum rate is used to determine benefits as of that annuity starting date.

(iii) *Annuity conversion rates and factors*—(A) *Conversion factors where a separate mortality table was used prior to plan termination*—(*1*) *Use of a separate mortality table.* This paragraph (e)(2)(iii)(A) applies for purposes of converting a participant's accumulated benefit to an annuity after the plan termination date if, for the entire 5-year period ending on the plan termination date, the plan provides for a mortality table in conjunction with an interest rate to be used to convert a participant's accumulated benefit (or a portion thereof) to an annuity. If this paragraph (e)(2)(iii)(A) applies, then the plan is treated as meeting the requirements of section 411(b)(5)(B)(i) and paragraph (d)(1) of this section only if, for purposes of converting a participant's accumulated benefit (or portion thereof) to an annuity for annuity starting dates after the plan termination date, the mortality table used is the table described in paragraph (e)(2)(iii)(A)(*2*) of this section and the interest rate is the rate described in paragraph (e)(2)(iii)(A)(*3*) of this section.

(*2*) *Specific mortality table.* The mortality table used is the mortality table specified under the plan for purposes of converting a participant's accumulated benefit to an annuity as of the termination date. This mortality table is used regardless of whether it was used during the entire 5-year period ending on the plan termination date. For purposes of applying this paragraph (e)(2)(iii)(A)(*2*), if the mortality table specified in the plan, as of the plan termination date, is a mortality table that is updated to reflect expected improvements in mortality experience (such as occurs with the applicable mortality table under section 417(e)(3)), then the table used for an annuity starting date after the plan termination date takes into account updates through the annuity starting date.

(*3*) *Specific interest rate.* The interest rate used is the interest rate specified under the plan for purposes of converting a participant's accumulated benefit to an annuity for annuity starting dates after the plan termination date. However, if the interest rate used under the plan for purposes of converting a participant's accumulated benefit to an annuity has not been the same fixed rate during the 5-year period ending on the plan termination date, then the interest rate used for purposes of converting a participant's accumulated benefit to an annuity for annuity starting dates after the plan termination date is the average interest rate that applied for this purpose during the 5-year period ending on the plan termination date.

(B) *Tabular factors.* If, as of the plan termination date, a tabular annuity conversion factor (i.e., a single conversion factor that combines the effect of interest and mortality) is used to convert a participant's accumulated benefit (or a portion thereof) to an annuity and that same fixed tabular annuity conversion factor has been used during the entire 5-year period ending on the plan termination date, then the plan satisfies the requirements of this paragraph (e)(2)(iii) only if that same tabular annuity conversion factor continues to apply after the plan termination date. However, if the tabular annuity conversion factor used to convert a participant's accumulated benefit (or a portion thereof) to an annuity is not described in the preceding sentence (including any case in which the tabular annuity conversion factor was a fixed conversion factor that changed during the 5-year period ending on the plan termination date), then the plan satisfies the requirements of this paragraph (e)(2)(iii) only if the tabular annuity conversion factor used to convert a participant's accumulated benefit (or a portion thereof) to an annuity for annuity starting dates after the plan termination date is equal to the average of the tabular annuity conversion factors used under the plan for that purpose during the 5-year period ending on the plan termination date.

(C) *Factor applicable where a separate mortality table was not used for entire 5-year period prior to plan termination.* If paragraph (e)(2)(iii)(A) of this section does not apply (including any case in which a separate mortality table was used in conjunction with a separate interest rate to convert a participant's accumulated benefit (or a portion thereof) to an annuity for only a portion of the 5-year period ending on the plan termination date), then the plan is treated as having used a tabular annuity conversion factor to convert a participant's accumulated benefit (or a portion thereof) to an annuity for the entire 5-year period ending on the plan termination date. As a result, the rules of paragraph (e)(2)(iii)(B) of this section apply to determine the annuity conversion factor used for purposes of converting a participant's accumulated benefit (or portion thereof) to an annuity for annuity starting dates after the plan termination date. For this purpose, if a separate mortality table and separate interest rate applied for a portion of the 5-year period, that mortality table and interest rate are used to calculate an annuity conversion factor and that factor is treated as having been the tabular annuity conversion factor that applied for that portion of the 5-year period for purposes of this paragraph (e)(2)(iii).

(D) *Separate application with respect to optional forms.* This paragraph (e)(2)(iii) applies separately with respect to each optional form of benefit on the date of plan termination. For this purpose, the term optional form of benefit has the meaning given that term in § 1.411(d)–3(g)(6)(ii), except that a change in the annuity conversion factor used to determine a particular benefit is disregarded in determining whether different optional forms exist. Thus, for example, if, for the entire 5-year period ending on the plan termination date, the plan provides for a mortality table in conjunction with an interest rate to be used to determine annuities other than qualified joint and survivor annuities, but for specified tabular factors to apply to determine annuities that are qualified joint and survivor annuities, then paragraph (e)(2)(iii)(A) of this section applies for purposes of annuities other than qualified joint and survivor annuities and paragraph (e)(2)(iii)(B) of this section applies for purposes of annuities that are qualified joint and survivor annuities. In addition, if the annuity conversion factor used to determine a particular qualified joint and survivor annuity has changed in the 5-year period ending on the plan termination date, the different factors are averaged for purposes of determining the annuity conversion factor that applies after plan termination for that particular qualified joint and survivor annuity.

(iv) *Rules of application*—(A) *Average of interest rates for crediting interest*—(*1*) *In general.* For purposes of determining the average of the interest rates under paragraph (e)(2)(ii) of this section, an interest crediting period is taken into account if the interest crediting date for the interest crediting period is within the 5-year period ending on the plan termination date. The average of the interest rates is determined as the arithmetic average of the annual interest rates used for those interest crediting periods. If the interest crediting periods taken into account are not all the same length, then each rate is weighted to reflect the length of the interest crediting period in which it applied. If the plan provides for the

crediting of interest more frequently than annually, then interest credits after the plan termination date must be prorated in accordance with the rules of paragraph (d)(1)(iv)(C) of this section.

(*2*) *Section 411(d)(6) protected accumulated benefit.* In general, the interest rate that was used for each interest crediting period is the ongoing interest crediting rate that was specified under the plan for that period, without regard to any interest rate that was used prior to an amendment changing the interest crediting rate with respect to a section 411(d)(6) protected benefit. However, if, as of the end of the last interest crediting period that ends on or before the plan termination date, the participant's accumulated benefit is based on a section 411(d)(6) protected benefit that results from a prior amendment to change the rate of interest crediting applicable under the plan, then the pre-amendment interest rate is treated as having been used for each interest crediting period after the date of the interest crediting rate change (so that the amendment is disregarded).

(B) *Average annuity conversion rates and factors*—(*1*) *In general.* For purposes of determining average annuity conversion interest rates and average tabular annuity conversion factors under paragraph (e)(2)(iii) of this section, an interest rate or tabular annuity conversion factor is taken into account if the rate or conversion factor applied under the terms of the plan to convert a participant's accumulated benefit (or a portion thereof) to a benefit payable in the form of an annuity during the 5-year period ending on the plan termination date. The average is determined as the arithmetic average of the interest rates or tabular factors used during that period. If the periods in which the rates or factors that are averaged are not all the same length, then each rate or factor is weighted to reflect the length of the period in which it applied.

(*2*) *Section 411(d)(6) protected annuity conversion factors.* In general, the annuity conversion interest rate or tabular annuity conversion factor that was used for each period is the ongoing interest rate or tabular factor that was specified under the plan for that period, without regard to any rate or factor that was used under the plan prior to an amendment changing the rate or factor with respect to a section 411(d)(6) protected benefit. However, if, as of the plan termination date, the participant's annuity benefit for an annuity commencing at that date would be based on a section 411(d)(6) protected benefit that results from a prior amendment to change the rate or factor under the plan, then the pre-amendment rate or factor is treated as having been used after the date of the amendment (so that the amendment is disregarded).

(C) *Blended rates.* If, as of the plan termination date, the plan determines interest credits by applying different rates to two or more different predetermined portions of the accumulated benefit, then the interest crediting rate that applies after the plan termination date is determined separately with respect to each portion under the rules of paragraph (e)(2)(ii) of this section.

(D) *Participants with less than 5 years of interest credits upon plan termination.* If the plan provided for interest credits for any interest crediting period in which, pursuant to the terms of the plan, an individual was not eligible to receive interest credits (including because the individual was not a participant or beneficiary in the relevant interest crediting period), then, for purposes of determining the individual's average interest crediting rate under paragraph (e)(2)(ii) of this section, the individual is treated as though the individual received interest credits in that period using the interest crediting rate that applied in that period under the terms of the plan to a similarly situated participant or beneficiary who was eligible to receive interest credits.

(E) *Plan termination date*—(*1*) *Plans subject to Title IV of ERISA.* In the case of a plan that is subject to Title IV of ERISA, the plan termination date for purposes of this paragraph (e)(2) means the plan's termination date established under section 4048(a) of ERISA.

(*2*) *Other plans.* In the case of a plan that is not subject to Title IV of ERISA, the plan termination date for purposes of this paragraph (e)(2) means the plan's termination date established by the plan administrator, provided that the plan termination date may be no earlier than the date on which the actions necessary to effect the plan termination—other than the distribution of plan benefits—are taken. However, a plan is not treated as terminated on the plan's termination date if the assets are not distributed as soon as administratively feasible after that date. See Rev. Rul. 89–87 (1989–2 CB 2), (see § 601.601(d)(2)(ii)(*b*) of this chapter).

(v) *Examples.* The following examples illustrate the rules of this paragraph (e)(2). In each case, it is assumed that the plan is terminated in a standard termination.

Example 1. (i) *Facts.* (A) Plan A is a defined benefit plan with a calendar plan year that expresses each participant's accumulated benefit in the form of a hypothetical account balance to which principal credits are made at the end of each calendar quarter and to which interest is credited at the end of each calendar quarter based on the balance at the beginning of the quarter. Interest credits under Plan A are based on a rate of interest fixed at the beginning of each plan year equal to the third segment rate for the preceding December, except that the plan used the rate of interest on 30-year Treasury bonds (instead of the third segment rate) for plan years before 2013. The plan is terminated on March 3, 2017.

(B) The third segment rate credited under Plan A from January 1, 2013, through December 31, 2016, is assumed to be: 6 percent annually for each of the four quarters in 2016; 6.5 percent annually for each of the four quarters in 2015; 6 percent annually for each of the four quarters in 2014; and 5.5 percent annually for each of the four quarters in 2013. The rate of interest on 30-year Treasury bonds credited under Plan A for each of the four quarters in 2012 is assumed to be 4.4 percent annually.

(ii) *Conclusion.* Pursuant to paragraph (e)(2)(ii) of this section, the interest crediting rate used to determine accrued benefits under the plan on and after the date of plan termination is an annual rate of 5.68 percent (which is the arithmetic average of 6 percent, 6.5 percent, 6 percent, 5.5 percent, and 4.4 percent). In accordance with the rules of paragraph (d)(1)(iv)(C) of this section, the quarterly interest crediting rate after the plan termination date is 1.42 percent (5.68 divided by 4).

Example 2. (i) *Facts.* The facts are the same as *Example 1.* Participant S, who terminated employment before January 1, 2017, has a hypothetical account balance of $100,000 when the plan is terminated on March 3, 2017. Participant S commences distribution in the form of a straight life annuity commencing on January 1, 2020. For the entire 5-year period ending on the plan termination date, the plan has provided that the applicable section 417(e) rates for the preceding August are applied on the annuity starting date in order to convert the hypothetical account balance to an annuity. Based on the 5-year averages of the first segment rates, the second segment rates, and the third segment rates as of the plan termination date, and the applicable mortality table for the year 2020, the resulting conversion rate at the January 1, 2020 annuity starting date is 166.67 for a monthly straight life annuity payable to a participant whose age is the age of Participant S on January 1, 2020.

(ii) *Conclusion.* In accordance with the conclusion in *Example 1,* the interest crediting rate after the plan termination date is 1.42 percent for each of the 12 quarterly interest crediting dates in the period from March 3, 2017, through December 31, 2019, so that Participant S's account balance is $118,436 on December 31, 2019. As a result, using the annuity conversion rate of 166.67, the amount payable to Participant S commencing on January 1, 2020 is $711 per month.

Example 3. (i) *Facts.* The facts are the same as *Example 1.* In addition, Participant

T commenced participation in Plan A on April 17, 2014.

(ii) *Conclusion.* In accordance with the conclusion in *Example 1* and the rule of paragraph (e)(2)(iv)(D) of this section, the quarterly interest crediting rate used to determine Participant T's accrued benefits under Plan A on and after the date of plan termination is 1.42 percent, which is the same rate that applies to all participants and beneficiaries in Plan A after the termination date (and that would have applied to Participant T if Participant T had participated in the plan during the 5-year period preceding the date of plan termination).

Example 4. (i) *Facts.* (A) Plan B is a defined benefit plan with a calendar plan year that expresses each participant's accumulated benefit in the form of a hypothetical account balance to which principal credits are made at the end of each calendar year and to which interest is credited at the end of each calendar year based on the balance at the end of the preceding year. The plan is terminated on January 27, 2018.

(B) The plan's interest crediting rate for each calendar year during the entire 5-year period ending on the plan termination date is equal to (A) 50 percent of the greater of the rate of interest on 3-month Treasury Bills for the preceding December and an annual rate of 4 percent, plus (B) 50 percent of the rate of return on plan assets. The rate of interest on 3-month Treasury Bills credited under Plan B is assumed to be: 3.4 Percent for 2017; 4 percent for 2016; 4.5 percent for 2015; 3.5 percent for 2014; and 4.2 percent for 2013. Each of these rates applied under Plan B for purposes of determining the interest credits described in clause (A) of this paragraph (i), except that the 4 percent minimum rate applied for 2017 and 2014. The second segment rate is assumed to be: 6 percent for December 2016; 6 percent for December 2015; 6.5 percent for December 2014; 6 percent for December 2013; and 5.5 percent for December 2012.

(ii) *Conclusion.* Pursuant to paragraph (e)(2)(ii) of this section, the interest crediting rate used to determine accrued benefits under the plan on and after the date of plan termination is 5.07 percent. This number is equal to the sum of 50 percent of 4.14 percent (which is the sum of 4 percent, 4 percent, 4.5 percent, 4 percent, and 4.2 percent, divided by 5), and 50 percent of 6 percent (which is the average second segment rate applicable for the 5 interest crediting periods ending within the 5-year period, as applied pursuant to the substitution rule described in paragraphs (e)(2)(ii)(B) and (C) of this section).

Example 5. (i) *Facts.* The facts are the same as in *Example 4,* except that the plan had credited interest before January 1, 2016, using the rate of return on a specified RIC and had been amended effective January 1, 2016, to base interest credits for all plan years after 2015 on the interest rate formula described in paragraph (i) of *Example 4.* In order to comply with section 411(d)(6), the plan provides that, for each participant or beneficiary who was a participant on December 31, 2015, benefits at any date are based on either the ongoing hypothetical account balance on that date (which is based on the December 31, 2015 balance, with interest credited thereafter at the rate described in the first sentence of paragraph (i) of *Example 4* and taking principal credits after 2015 into account) or a special hypothetical account balance (the pre-2016 balance) on that date, whichever balance is greater. For each participant, the pre-2016 balance is a hypothetical account balance equal to the participant's December 31, 2015 balance, with interest credited thereafter at the RIC rate of return, but with no principal credits after 2015. There are 10 participants for whom the pre-2016 balance exceeds the ongoing hypothetical account balance at the end of 2017 (which is the end of the last interest crediting period that ends on or before the January 27, 2018, plan termination date).

(ii) *Conclusion.* Because Plan B credited interest prior to 2016 using the rate of return on a RIC (a rate described in paragraph (d)(5) of this section), for purposes of determining the average interest crediting rate upon plan termination, the interest crediting rate used to determine accrued benefits under Plan B for all participants during those periods (for the calendar years 2013, 2014, and 2015) is equal to the second segment rate for December of the calendar year preceding each interest crediting period. In addition, because the pre-2016 balances exceeded the ongoing hypothetical account balance for 10 participants in the last interest crediting period prior to plan termination, for purposes of determining the average interest crediting rate upon plan termination, the interest crediting rate used to determine accrued benefits under Plan B for 2016 and 2017 for those participants is equal to the second segment rate for December 2015 and December 2016, respectively. For all other participants, for purposes of determining the average interest crediting rate upon plan termination, the interest crediting rate used to determine accrued benefits under Plan B for 2016 and 2017 is based on the ongoing interest crediting rate (as described in *Example 4*).

(3) * * * (i) * * * The right to future interest credits determined in the manner specified under the plan and not conditioned on future service is a factor that is used to determine the participant's accrued benefit, for purposes of section 411(d)(6). * * * Paragraphs (e)(3)(ii) through (e)(3)(vi) of this section set forth special rules that apply regarding the interaction of section 411(d)(6) and changes to a plan's interest crediting rate. * * *

(ii) * * *

(B) The effective date of the amendment is at least 30 days after adoption of the amendment;

(C) On the effective date of the amendment, the new interest crediting rate is not lower than the interest crediting rate that would have applied in the absence of the amendment; and

(D) For plan years that begin on or after January 1, 2016, if prior to the amendment the plan used a fixed annual floor in connection with a rate described in paragraph (d)(4)(ii), (iii) or (iv) of this section (as permitted under paragraph (d)(6)(ii) of this section), the floor is retained after the amendment to the maximum extent permissible under paragraph (d)(6)(ii)(A) of this section.

(iii) *Coordination of section 411(d)(6) and market rate of return limitation*—(A) *In general.* An amendment to a statutory hybrid plan that preserves a section 411(d)(6) protected benefit is subject to the rules under paragraph (d) of this section relating to market rate of return. However, in the case of an amendment to change a plan's interest crediting rate for periods after the applicable amendment date from one interest crediting rate (the old rate) that satisfies the requirements of paragraph (d) of this section to another interest crediting rate (the new rate) that satisfies the requirements of paragraph (d) of this section, the plan's effective interest crediting rate is not in excess of a market rate of return for purposes of paragraph (d) of this section merely because the plan provides for the benefit of any participant who is benefiting under the plan (within the meaning of § 1.410(b)–3(a)) on the applicable amendment date to never be less than what it would be if the old rate had continued but without taking into account any principal credits (as defined in paragraph (d)(1)(ii)(D) of this section) after the applicable amendment date.

(B) *Multiple amendments.* A pattern of repeated plan amendments each of which provides for a prospective change in the plan's interest crediting rate with respect to the benefit as of the applicable amendment date will be treated as resulting in the ongoing plan terms providing for an effective interest crediting rate that is in excess of a market rate of return. See § 1.411(d)–4, A–1(c)(1).

(iv) *Change in lookback month or stability period used to determine interest credits*—(A) *Section 411(d)(6) anti-cutback relief.* With respect to a plan using an interest crediting rate described in paragraph (d)(3) or (d)(4) of this section, notwithstanding the general rule of paragraph (e)(3)(i) of this section, if a plan amendment changes the lookback month or stability period used to determine interest credits, the amendment is not treated as reducing accrued benefits in violation of section 411(d)(6) merely on account of this change if the conditions of this paragraph (e)(3)(iv)(A) are satisfied. If the plan amendment is effective on or after the adoption date, any interest credits credited for the one-year period commencing on the date the amendment is effective must be determined using the lookback month and stability period provided under the plan before the amendment or the lookback month and stability period after the amendment, whichever results in the larger interest credits. If the plan amendment is adopted retroactively (that is, the amendment is effective prior to the adoption date), the plan must use the lookback month and stability period resulting in the larger interest credits for the period beginning with the effective date and ending one year after the adoption date.

(B) *Section 411(b)(5)(B)(i)(I) market rate of return relief.* The plan's effective interest crediting rate is not in excess of a market rate

of return for purposes of paragraph (d) of this section merely because a plan amendment complies with the requirements of paragraph (e)(3)(iv)(A) of this section. However, a pattern of repeated plan amendments each of which provides for a change in the lookback month or stability period used to determine interest credits will be treated as resulting in the ongoing plan terms providing for an effective interest crediting rate that is in excess of a market rate of return. See § 1.411(d)–4, A–1(c)(1).

(v) *RIC ceasing to exist.* This paragraph (e)(3)(v) applies in the case of a statutory hybrid plan that credits interest using an interest crediting rate equal to the rate of return on a RIC (pursuant to paragraph (d)(5)(iv) of this section) that ceases to exist, whether as a result of a name change, liquidation, or otherwise. In such a case, the plan is not treated as violating section 411(d)(6) provided that the rate of return on the successor RIC is substituted for the rate of return on the RIC that no longer exists, for purposes of crediting interest for periods after the date the RIC ceased to exist. In the case of a name change or merger of RICs, the successor RIC means the RIC that results from the name change or merger involving the RIC that no longer exists. In all other cases, the successor RIC is a RIC selected by the plan sponsor that has reasonably similar characteristics, including characteristics related to risk and rate of return, as the RIC that no longer exists.

(4) *Actuarial increases after normal retirement age.* A statutory hybrid plan is not treated as providing an effective interest crediting rate that is in excess of a market rate of return for purposes of paragraph (d) of this section merely because the plan provides that the participant's benefit, as of each annuity starting date after normal retirement age, is equal to the greater of—

(i) The benefit based on the accumulated benefit determined using an interest crediting rate that is not in excess of a market rate of return under paragraph (d) of this section; and

(ii) The benefit that satisfies the requirements of section 411(a)(2).

(5) *Plans that permit participant direction of interest crediting rates.* [Reserved]

* * * * *

(f) * * *

(2) * * *

(i) * * *

(B) *Special effective date.* Paragraphs (d)(1)(iii), (d)(1)(iv)(D), (d)(1)(vi), (d)(2)(ii), (d)(4)(v), (d)(5)(ii)(B), (d)(5)(iv), (d)(6), (e)(2), (e)(3)(iii), (e)(3)(iv), (e)(3)(v) and (e)(4) of this section apply to plan years that begin on or after January 1, 2016 (or an earlier date as elected by the taxpayer).

* * * * *

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2014–22293 Filed 9–18–14; 8:45 am]

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FEDERAL REGISTER

Vol. 79 Friday,

No. 182 September 19, 2014

Part III

The President

Proclamation 9168—Constitution Day and Citizenship Day, Constitution Week, 2014

Notice of September 17, 2014—Continuation of the National Emergency With Respect to Persons Who Commit, Threaten To Commit, or Support Terrorism

Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 9168 of September 16, 2014

Constitution Day and Citizenship Day, Constitution Week, 2014

By the President of the United States of America

A Proclamation

Eleven years after a small band of patriots declared the independence of our new Nation, our Framers set out to refine the promise of liberty and codify the principles of our Republic. Though the topics were contentious and the debate fierce, the delegates' shared ideals and commitment to a more perfect Union yielded compromise. Signed on September 17, 1787, our Constitution enshrined—in parchment and in the heart of our young country—the foundation of justice, equality, dignity, and fairness, and became the cornerstone of the world's oldest constitutional democracy.

For more than two centuries, our founding charter has guided our progress and defined us as a people. It has endured as a society of farmers and merchants advanced to form the most dynamic economy on earth; as a small army of militias grew to the finest military the world has ever known; and as a Nation of 13 original States expanded to 50, from sea to shining sea. Our Founders could not have foreseen the challenges our country has faced, but they crafted an extraordinary document. It allowed for protest and new ideas that would broaden democracy's reach. And it stood the test of a civil war, after which it provided the framework to usher in a new birth of freedom through the 13th, 14th, and 15th Amendments.

America's revolutionary experiment in democracy has, from its first moments, been a beacon of hope and opportunity for people around the world, inspiring some to call for freedom in their own land and others to seek the blessings of liberty in ours. The United States has always been a nation of immigrants. We are strengthened by our diversity and united by our fidelity to a set of tenets. We know it is not only our bloodlines or an accident of birth that make us Americans. It is our firm belief that out of many we are one; that we are united by our convictions and our unalienable rights. Each year on Citizenship Day, we recognize our newest citizens whose journeys have been made possible by our founding documents and whose contributions have given meaning to our charter's simple words.

Our Constitution reflects the values we cherish as a people and the ideals we strive for as a society. It secures the privileges we enjoy as citizens, but also demands participation, responsibility, and service to our country and to one another. As we celebrate our Nation's strong and durable framework, we are reminded that our work is never truly done. Let us renew our commitment to these sacred principles and resolve to advance their spirit in our time.

In remembrance of the signing of the Constitution and in recognition of the Americans who strive to uphold the duties and responsibilities of citizenship, the Congress, by joint resolution of February 29, 1952 (36 U.S.C. 106), designated September 17 as ''Constitution Day and Citizenship Day,'' and by joint resolution of August 2, 1956 (36 U.S.C. 108), requested that the President proclaim the week beginning September 17 and ending September 23 of each year as ''Constitution Week.''

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim September 17, 2014, as Constitution Day and Citizenship Day, and September 17 through September 23, 2014, as Constitution Week. I encourage Federal, State, and local officials, as well as leaders of civic, social, and educational organizations, to conduct ceremonies and programs that bring together community members to reflect on the importance of active citizenship, recognize the enduring strength of our Constitution, and reaffirm our commitment to the rights and obligations of citizenship in this great Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of September, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-ninth.

[FR Doc. 2014–22549
Filed 9–18–14; 11:15 am]
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Presidential Documents

Notice of September 17, 2014

Continuation of the National Emergency With Respect to Persons Who Commit, Threaten To Commit, or Support Terrorism

On September 23, 2001, by Executive Order 13224, the President declared a national emergency with respect to persons who commit, threaten to commit, or support terrorism, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the terrorist attacks on September 11, 2001, in New York and Pennsylvania and against the Pentagon, and the continuing and immediate threat of further attacks against United States nationals or the United States.

The actions of persons who commit, threaten to commit, or support terrorism continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For this reason, the national emergency declared in Executive Order 13224 of September 23, 2001, and the measures adopted on that date to deal with that emergency, must continue in effect beyond September 23, 2014. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to persons who commit, threaten to commit, or support terrorism declared in Executive Order 13224.

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

THE WHITE HOUSE,

September 17, 2014.

[FR Doc. 2014–22550

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