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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 23

**[Docket No. CE287; Special Conditions No. 23–227–SC]**

### Special Conditions: Honda Aircraft Company Model HA–420 Hondajet, Fire Extinguishing; Withdrawal

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final special conditions; withdrawal.

**SUMMARY:** The FAA is withdrawing a previously published notice granting special conditions for the Honda Aircraft Company model HA–420 jet airplane. We are withdrawing Special Condition No. 23–227–SC through mutual agreement with Honda Aircraft Company.

**DATES:** This special condition published on September 23, 2008 (73 FR 54675) is withdrawn, effective April 27, 2015.

**FOR FURTHER INFORMATION CONTACT:** Jeff Pretz, Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, 901 Locust, Room 301, Kansas City, MO 64106; telephone (816) 329–3239; facsimile (816) 329–4090, email *jeff.pretz@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

#### Background

On September 23, 2008, the FAA published Special Condition No. 23–227–SC for the Honda Aircraft Company new model HA–420. The HA–420 is a four to five passenger (depending on configuration), two crew, lightweight business jet with a 43,000-foot service ceiling and a maximum takeoff weight of 9,963 pounds. The airplane is powered by two GE-Honda Aero Engines (GHAE) HF–120 turbofan engines mounted above the wings towards the aft of the airplane.

On October 11, 2006, Honda Aircraft Company applied for a type certificate for their new Model HA–420 aircraft. On October 10, 2013, Honda Aircraft Company requested an extension with an effective application date of October 1, 2013. This extension changed the type certification basis to amendment 23–62.

#### Reason for Withdrawal

The FAA is withdrawing Special Condition No. 23–227–SC because Honda Aircraft Company elected to revise the model HA–420 certification basis to amendment 23–62. This amendment contains adequate and appropriate standards for engine fire extinguishing systems.

The authority citation for this Special Condition withdrawal is 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.17; and 14 CFR 11.38 and 11.19.

#### Conclusion

Withdrawal of this special condition does not preclude the FAA from issuing another notice on the subject matter in the future or committing the agency to any future course of action.

Issued in Kansas City, Missouri on April 20, 2015.

**Earl Lawrence,**

*Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2015–09742 Filed 4–24–15; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 23

**[Docket No. CE277; Special Conditions No. 23–217–SC]**

### Special Conditions: Honda Aircraft Company Model HA–420 Hondajet, Protection of Systems for High Intensity Radiated Fields (HIRF); Withdrawal

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final special conditions; withdrawal.

**SUMMARY:** The FAA is withdrawing a previously published notice granting special conditions for the Honda Aircraft Company model HA–420 jet airplane. We are withdrawing Special Condition No. 23–217–SC through mutual agreement with Honda Aircraft Company.

**DATES:** This special condition published on December 10, 2007 (72 FR 69572) is withdrawn, effective April 27, 2015.

**FOR FURTHER INFORMATION CONTACT:** James Brady, Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, 901 Locust, Room 301, Kansas City, MO 64106; telephone (816) 329–4132; facsimile (816) 329–4090, email *james.brady@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

#### Background

On December 10, 2007, the FAA published Special Condition No. 23–217–SC for the Honda Aircraft Company new model HA–420. The HA–420 is a four to five passenger (depending on configuration), two crew, lightweight business jet with a 43,000-foot service ceiling and a maximum takeoff weight of 9963 pounds. The airplane is powered by two GE-Honda Aero Engines (GHAE) HF–120 turbofan engines mounted above the wings towards the aft of the airplane.

On October 11, 2006, Honda Aircraft Company applied for a type certificate for their new Model HA–420 aircraft. On October 10, 2013, Honda Aircraft Company requested an extension with an effective application date of October 1, 2013. This extension changed the type certification basis to amendment 23–62.

#### Reason for Withdrawal

The FAA is withdrawing Special Condition No. 23–217–SC because Honda Aircraft Company elected to revise the model HA–420 certification basis to amendment 23–62. This amendment contains adequate and appropriate standards for HIRF.

The authority citation for this Special Condition withdrawal is 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.17; and 14 CFR 11.38 and 11.19.

#### Conclusion

Withdrawal of this special condition does not preclude the FAA from issuing another notice on the subject matter in the future or committing the agency to any future course of action.

Issued in Kansas City, Missouri on April 20, 2015.

**Earl Lawrence,**

*Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2015–09743 Filed 4–24–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2014–0655; Directorate Identifier 2013–NM–070–AD; Amendment 39–18142; AD 2015–08–06]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are superseding Airworthiness Directive (AD) 2007–14–05 for all Airbus Model A310 and Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes). AD 2007–14–05 required revising the Airworthiness Limitations section of the Instructions for Continued Airworthiness by incorporating certain certification maintenance requirements. This new AD requires revising the maintenance or inspection program to incorporate more restrictive maintenance requirements and airworthiness limitations. This AD was prompted by a determination that more restrictive maintenance requirements and airworthiness limitations are necessary. We are issuing this AD to prevent safety-significant latent failures that would, in combination with one or more other specific failures or events, result in a hazardous or catastrophic failure condition of avionics, hydraulic systems, fire detection systems, fuel systems, or other critical systems.

**DATES:** This AD becomes effective June 1, 2015.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 1, 2015.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of August 22, 2007 (72 FR 39307, July 18, 2007).

**ADDRESSES:** You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D*=FAA–2014–0655; or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Airbus SAS—EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com*; Internet *http://www.airbus.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0655.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149.

**SUPPLEMENTARY INFORMATION:**

### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2007–14–05, Amendment 39–15127 (72 FR 39307, July 18, 2007). AD 2007–14–05 applied to all Airbus Model A310 and A300–600 series airplanes. The NPRM published in the **Federal Register** on October 1, 2014 (79 FR 59154).

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2013–0072, dated March 20, 2013, corrected January 15, 2015, (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A310 and Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes). The MCAI states:

> The airworthiness limitations for Airbus aeroplanes are currently published in Airworthiness Limitations Section (ALS) documents.
>
> The airworthiness limitations applicable to the A300–600 and A300–600ST Certification Maintenance Requirements (CMR) were previously specified in the Airbus A300–600 CMR document referenced AUST5/829//85. DGAC [Direction Générale de l'Aviation Civile] France issued AD F2005–123 *http://ad.easa.europa.eu/blob/easa_ad_F_2005_123.pdf/AD_F-2005-123* (EASA approval 2005–6070) [which corresponds to FAA AD 2007–14–05, Amendment 39–15127 (72 FR 39307, July 18, 2007)] to require compliance to the requirements as specified in this document.
>
> Since that AD was issued, the CMR tasks are now specified in Airbus A300–600 and Airbus A310 ALS Part 3 documents, which are approved by the European Aviation Safety Agency (EASA). These documents introduce more restrictive maintenance requirements and/or airworthiness limitations. Failure to comply with the maintenance requirements contained in these documents could result in an unsafe condition.
>
> For the reasons described above, this new [EASA] AD retains the requirements of DGAC France AD F–2005–123, which is superseded, and requires the implementation of the new or more restrictive maintenance requirements as specified in Airbus A310 ALS Part 3 Revision 00 and A300–600 ALS Part 3 Revision 00, as applicable to the aeroplane type/model.
>
> This [EASA] AD is republished to correct typographical errors of the MRBR tasks numbers in Table 1 of the [EASA] AD.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0655-0002.*

### Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (79 FR 59154, October 1, 2014) or on the determination of the cost to the public.

### Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (79 FR 59154, October 1, 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 59154, October 1, 2014).

### Related Service Information Under 1 CFR Part 51

Airbus has issued A310 Airworthiness Limitations Section (ALS) Part 3, Certification Maintenance Requirements (CMR), dated November 30, 2012. Airbus has also issued A300–600 ALS Part 3, Certification Maintenance Requirements (CMR), dated April 18, 2012. This service information describes mandatory

maintenance tasks operators must perform at specified intervals. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

## Costs of Compliance

We estimate that this AD affects 156 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Retained actions from AD 2007–14–05 Amendment 39–15127 (72 FR 39307, July 18, 2007). | 1 work-hour × $85 per hour = $85 | $0 | $85 | $13,260 |
| Revision of maintenance or inspection program [new action]. | 1 work-hour × $85 per hour = $85 | 0 | 85 | 13,260 |

## 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–2014–0655; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2007–14–05, Amendment 39–15127 (72 FR 39307, July 18, 2007), and adding the following new AD:

**2015–08–06 Airbus:** Amendment 39–18142. Docket No. FAA–2014–0655; Directorate Identifier 2013–NM–070–AD.

**(a) Effective Date**

This AD becomes effective June 1, 2015.

**(b) Affected ADs**

This AD replaces AD 2007–14–05, Amendment 39–15127 (72 FR 39307, July 18, 2007).

**(c) Applicability**

This AD applies to all Airbus Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes; and all Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes, Model A300 B4–605R and B4–622R airplanes, Model A300 F4–605R and F4–622R airplanes, and Model A300 C4–605R Variant F airplanes; certificated in any category.

**(d) Subject**

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

**(e) Reason**

This AD was prompted by a determination that more restrictive maintenance requirements and airworthiness limitations are necessary. We are issuing this AD to prevent safety-significant latent failures that would, in combination with one or more other specific failures or events, result in a hazardous or catastrophic failure condition of avionics, hydraulic systems, fire detection systems, fuel systems, or other critical systems.

**(f) Compliance**

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

**(g) Retained Revision to the Airworthiness Limitations Section of the Instructions for Continued Airworthiness**

This paragraph restates the requirements of paragraph (f) of AD 2007–14–05, Amendment 39–15127 (72 FR 39307, July 18, 2007), with no changes. Within 3 months after August 22, 2007 (the effective date of AD 2007–14–05), revise the Airworthiness Limitations section of the Instructions for Continued Airworthiness by incorporating Airbus A300–600 Certification Maintenance Requirements (CMRs) AI/ST5/829/85, Issue 12, dated February 2005 (for Model A300–600 series airplanes); or Airbus A310 CMR AI/ST5/849/85, Issue 12, dated February 2005 (for Model A310 series airplanes); as applicable. Accomplish the actions specified in the applicable CMRs at the intervals specified in the applicable CMRs, except as provided by paragraph (h) of this AD. Where the CMRs specify to contact the Direction

Générale de l'Aviation Civile (DGAC), operators are required to contact the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. The actions must otherwise be accomplished in accordance with the applicable CMRs.

**(h) Retained Transition/Grace Period for Maintenance Significant Item (MSI) 78.30.00 Tasks**

This paragraph restates the requirements of paragraph (g) of AD 2007–14–05, Amendment 39–15127 (72 FR 39307, July 18, 2007), with no changes. For tasks identified in MSI 78.30.00, ''Thrust Reverser Actuation and Cowling,'' of Section 2, ''CMR 'Two Star' Tasks,'' of Airbus A300–600 CMR AI/ST5/829/85, Issue 12, dated February 2005; and Airbus A310 CMR AI/ST5/849/85, Issue 12, dated February 2005: The initial compliance time is within 2,000 flight cycles or 12 months after August 22, 2007 (the effective date of AD 2007–14–05), whichever occurs later. Thereafter, actions identified in MSI 78.30.00 must be accomplished within the repetitive interval specified in the applicable CMRs. Where the CMRs specify to contact the DGAC, operators are required to contact the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, for such approvals. The actions must be accomplished in accordance with the applicable CMRs.

**(i) New Revision of Maintenance or Inspection Program**

Within 3 months after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate Airbus A310 Airworthiness Limitations Section (ALS) Part 3, Certification Maintenance Requirements (CMR), dated November 30, 2012; or Airbus A300–600 ALS Part 3, Certification Maintenance Requirements (CMR), dated April 18, 2012. Except as required by paragraph (k) of this AD, the initial compliance time for accomplishing the actions is at the applicable time specified in Airbus A310 ALS Part 3, Certification Maintenance Requirements (CMR), dated November 30, 2012; or Airbus A300–600 ALS Part 3, Certification Maintenance Requirements (CMR), dated April 18, 2012, as applicable; or within 3 months after the effective date of this AD; whichever occurs later. Accomplishing the requirements in this paragraph terminates the requirements in paragraph (g) of this AD.

**(j) New No Alternative Actions or Intervals**

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

**(k) New Compliance Time for Model A300–600 Series Airplanes**

For CMR Task 213000–A0001–1–C, ''Pressurization Control,'' as identified in Sub-part 3–1, CMR Tasks, of the Airbus A300–600 ALS Part 3, Certification Maintenance Requirements (CMR), dated April 18, 2012: The initial compliance time for the task is at the applicable time specified in paragraphs (k)(1), (k)(2), and (k)(3) of this AD.

(1) For airplanes having accumulated less than 40,000 total flight hours since first flight of the airplane as of the effective date of this AD: Before the accumulation of 40,001 total flight hours.

(2) For airplanes having accumulated 40,000 total flight hours or more since first flight of the airplane as of the effective date of this AD, and on which Aging Systems Maintenance (ASM) Task 213115–04–1, ''Cabin Pressure Safety Valve;'' or Maintenance Review Board Report (MRBR) Tasks 21.30.00/06 and 21.30.00/08, ''Pressurization Control,'' have been accomplished: Before the accumulation of 14,000 flight hours after the most recent accomplishment of ASM Tasks 213115–04–1, or MRBR Tasks 21.30.00/06 and 21.30.00/08, whichever occurs later.

(3) For airplanes having accumulated 40,000 total flight hours or more since first flight of the airplane as of the effective date of this AD, and on which ASM Task 213115–04–1, or MRBR Tasks 21.30.00/06 and 21.30.00/08, have not been accomplished: Within 3 months after the effective date of this AD.

**(l) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.*

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

**(m) Related Information**

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2013–0072, dated March 20, 2013, (corrected January 15, 2015) for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0655.

**(n) Material Incorporated by Reference**

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

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

(3) The following service information was approved for IBR on June 1, 2015.

(i) Airbus A300–600 Airworthiness Limitations Section Part 3, Certification Maintenance Requirements, dated April 18, 2012.

(ii) Airbus A310 Airworthiness Limitations Section Part 3, Certification Maintenance Requirements, dated November 30, 2012.

(4) The following service information was approved for IBR on August 22, 2007 (72 FR 39307, July 18, 2007).

(i) Airbus A300–600 Certification Maintenance Requirements AI/ST5/829/85, Issue 12, dated February 2005.

(ii) Airbus A310 Certification Maintenance Requirements AI/ST5/849/85, Issue 12, dated February 2005.

(5) For service information identified in this AD, contact Airbus SAS—EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com*; Internet *http://www.airbus.com.*

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

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

Issued in Renton, Washington, on April 9, 2015.

**Jeffrey E. Duven,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2015–09285 Filed 4–24–15; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2015–0930; Directorate Identifier 2015–NM–040–AD; Amendment 39–18144; AD 2015–08–08]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Airplanes

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** We are superseding Airworthiness Directive (AD) 2014–26–53 and AD 2015–03–02 for certain Airbus Model A319–115, A319–133, A320–214, A320–232, and A320–233 airplanes. AD 2014–26–53 required repetitive detailed visual inspections to detect discrepancies of the wing lower skin surface and inboard main landing gear (MLG) support rib lower flange location fasteners and, depending on findings, accomplishment of applicable corrective action(s). AD 2015–03–02 required repetitive detailed visual inspections of the outboard MLG support rib lower flange fasteners for discrepancies, and corrective actions if necessary. This new AD retains the repetitive detailed visual inspections to detect discrepancies of the fasteners located in the wing lower skin surface and inboard MLG support rib lower flange with extended compliance times and repetitive intervals, and accomplishment of applicable corrective actions. This new AD also retains the repetitive detailed visual inspections of the outboard MLG support rib lower flange fasteners for discrepancies, and corrective actions if necessary. In addition, this new AD adds airplanes to the applicability. This AD was prompted by a determination that certain airplanes were missing from the applicability of AD 2014–26–53 and AD 2015–03–02 and that those airplanes may be affected by the unsafe condition addressed in AD 2014–26–53 and AD 2015–03–02. We are issuing this AD to detect and correct discrepancies of the fasteners at the external surface of the lower wing skin and inboard and outboard MLG support rib lower flanges, which could result in an airplane not meeting its maximum loads expected in service. This condition could result in structural failure.

**DATES:** This AD becomes effective May 12, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 12, 2015.

We must receive comments on this AD by June 11, 2015.

**ADDRESSES:** You may send comments by any of the following methods:

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

For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0930.

## Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0930; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149.

**SUPPLEMENTARY INFORMATION:**

## Discussion

On January 7, 2015, we issued AD 2014–26–53, Amendment 39–18068 (80 FR 3155, January 22, 2015). AD 2014–26–53 applied to certain Airbus Model A319–115, A319–133, A320–214, A320–232, and A320–233 airplanes. AD 2014–26–53 was prompted by reports of failure of certain fasteners located at the wing lower skin surface and inboard MLG support rib lower flange. AD 2014–26–53 required repetitive detailed visual inspections to detect discrepancies of the wing lower skin surface and inboard MLG support rib lower flange location fasteners and, depending on findings, accomplishment of applicable corrective action(s). We issued AD 2014–26–53 to detect and correct discrepancies of the fasteners at the external surface of the lower wing skin and inboard MLG support rib lower flange, which could result in an airplane not meeting its maximum loads expected in service. This condition could result in structural failure.

On January 30, 2015, we issued AD 2015–03–02, Amendment 39–18098 (80 FR 6897, February 9, 2015). AD 2015–03–02 applied to certain Airbus Model A319–115, A319–133, A320–214, A320–232, and A320–233 airplanes. AD 2015–03–02 was prompted by reports of failure of certain fasteners on the MLG support rib lower flange. AD 2015–03–02 required repetitive detailed visual inspections of the outboard MLG support rib lower flange fasteners for discrepancies, and corrective actions if necessary. We issued AD 2015–03–02 to detect and correct discrepancies of the fasteners at the outboard MLG support rib lower flange, which could result in an airplane not meeting its maximum loads expected in service. This condition could result in structural failure.

Since we issued AD 2014–26–53, Amendment 39–18068 (80 FR 3155, January 22, 2015); and AD 2015–03–02, Amendment 39–18098 (80 FR 6897, February 9, 2015); we have determined that certain airplanes were missing from the applicability of AD 2014–26–53 and AD 2015–03–02. Airbus Model A319–132 airplanes are affected with the identified unsafe condition and should have been included in the applicability of those ADs. In addition, we have also determined that the repetitive detailed visual inspections to detect discrepancies of the wing lower skin surface and inboard MLG support rib lower flange could be extended from 8-day intervals to 60-day intervals.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2015–0026, dated February 19, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A319–115, A319–132, A319–133, A320–214, A320–232, and A320–233 airplanes. The MCAI states:

> During production of wings, a number of taperlok fasteners were found failed after installation. The fasteners in question are located at the bottom skin of the Main Landing Gear (MLG) reinforcing plate, wing skin and Gear Support Rib 5 lower flange. Based on the results of the preliminary investigation, this affects only certain A319

and A320 aeroplanes delivered since January 2014.

This condition, if not detected and corrected could reduce the design safety margin of the structure.

Prompted by these findings, EASA issued Emergency AD 2014–0270–E (later revised) [which corresponds to certain requirements of AD 2014–26–53, Amendment 39–18068 (80 FR 3155, January 22, 2015)] to require repetitive detailed inspections (DET) of the bottom skin taperlok fasteners at the MLG Rib 5 footprint location and, depending on findings, accomplishment of applicable corrective action(s).

Since EASA AD 2014–0270R1 [which corresponds to certain requirements of AD 2015–03–02, Amendment 39–18098 (80 FR 6897, February 19, 2015)] was issued, based on in service feedback and further investigation, Airbus issued Revision 01 of Alert Operators Transmission (AOT) A57N006–14 to extend the original 8 calendar days inspection interval to 60 calendar days for the external area and for the internal inboard side. In addition, it was identified that the model A319–132 was missing from the [EASA] AD applicability.

For the reasons described above, this AD retains the requirements of EASA AD 2014–0270R1, which is superseded, to amend the Applicability and to require those actions within the new thresholds and intervals.

This [EASA] AD is still considered to be an interim action and further [EASA] AD action may follow.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0930.

## Related Service Information Under 1 CFR Part 51

Airbus has issued Airbus Alert Operators Transmission (AOT) A57N006–14, Revision 01, dated February 16, 2015. The service information describes procedures for repetitive detailed visual inspections to detect discrepancies of the wing lower skin surface and inboard and outboard MLG support rib lower flange location fasteners and corrective actions. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

This service information is reasonably available at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0930. Or see **ADDRESSES** for other ways to access this service information.

## FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of these same type designs.

## FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because failure of more than two fasteners at the outboard MLG support rib lower flange could result in an airplane not meeting its maximum loads expected in-service. This condition could result in failure of the structure. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

## Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–0930; Directorate Identifier 2015–NM–040–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

## Costs of Compliance

We estimate that this AD affects 148 airplanes of U.S. registry.

The actions required by AD 2014–26–53, Amendment 39–18068 (80 FR 3155, January 22, 2015); and AD 2015–03–2, Amendment 39–18098 (80 FR 6897, February 9, 2015); and retained in this AD, take about 2 work-hours per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the actions that were required by AD 2014–26–53 and AD 2015–03–06 is $170 per product, per inspection cycle.

We also estimate that it will take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $25,160, or $170 per product, per inspection cycle.

In addition, we estimate that any fastener replacement will take about 3 work-hours and require parts costing $400, for a cost of $655 per fastener replacement. We have no way of determining the number of aircraft that might need these actions.

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

For the reasons discussed above, I certify 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.

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2014–26–53, Amendment 39–18068 (80 FR 3155, January 22, 2015); and AD 2015–03–02, Amendment 39–18098 (80 FR 6897, February 9, 2015; and

■ b. Adding the following new AD:

**2015–08–08 Airbus:** Amendment 39–18144. Docket No. FAA–2015–0930; Directorate Identifier 2015–NM–040–AD.

**(a) Effective Date**

This AD becomes effective May 12, 2015.

**(b) Affected ADs**

This AD replaces the following:

(1) AD 2014–26–53, Amendment 39–18068 (80 FR 3155, January 22, 2015).

(2) AD 2015–03–02, Amendment 39–18098 (80 FR 6897, February 9, 2015).

**(c) Applicability**

This AD applies to Airbus Model A319–115, A319–132, A319–133, A320–214, A320–232, and A320–233 airplanes, certificated in any category, manufacturer serial numbers (MSN) 5817, 5826, 5837, 5848, 5855, 5864, 5875, 5886, 5896, 5910, and 5918 and subsequent.

**(d) Subject**

Air Transport Association (ATA) of America Code 57, Wings.

**(e) Reason**

This AD was prompted by a determination that certain airplanes were not included in the applicability of AD 2014–26–53, Amendment 39–18068 (80 FR 3155, January 22, 2015); and AD 2015–03–02, Amendment 39–18098 (80 FR 6897, February 9, 2015). This AD was also prompted by reports of failure of certain fasteners located at the wing lower skin surface, and inboard and outboard main landing gear (MLG) support rib lower flanges. We are issuing this AD to detect and correct discrepancies of the fasteners at the external surface of the lower wing skin and inboard and outboard MLG support rib lower flanges, which could result in an airplane not meeting its maximum loads expected in service. This condition could result in structural failure.

**(f) Compliance**

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

**(g) Retained for All Airplanes Except Airbus Model A319–132 Airplanes: Repetitive Inspections, With Extended Compliance Time and New Service Information**

This paragraph restates the requirements of paragraph (g) of AD 2014–26–53, Amendment 39–18068 (80 FR 3155, January 22, 2015), with an extended compliance time and new service information. For Airbus Model A319–115, A319–133, A320–214, A320–232, and A320–233 airplanes: Within 60 days after February 6, 2015 (the effective date of AD 2014–26–53), or within 60 days since the date of issuance of the original certificate of airworthiness or the original export certificate of airworthiness, or before further flight for any airplane that is not in operation for more than 60 days, whichever occurs later: Do the inspections required by paragraphs (g)(1) and (g)(2) of this AD, in accordance with Airbus Alert Operators Transmission (AOT) A57N006–14, Revision 00, dated December 4, 2014; or Airbus AOT A57N006–14, Revision 01, dated February 16, 2015. Repeat the inspections thereafter at intervals not to exceed 60 days. As of the effective date of this AD, only use Airbus AOT A57N006–14, Revision 01, dated February 16, 2015, to accomplish the actions required by this paragraph.

(1) Do a detailed visual inspection of the external surface of the left-hand and right-hand wing lower skin surface to detect missing or broken or migrated fasteners.

(2) Do a detailed visual inspection of the inboard MLG support rib lower flange to detect missing or broken nuts or fastener tails.

**(h) Retained for All Airplanes Except Airbus Model A319–132 Airplanes: Corrective Actions for the Inspections Required by Paragraph (g)(1) of This AD, With New Service Information**

This paragraph restates the requirements of paragraph (h) of AD 2014–26–53, Amendment 39–18068 (80 FR 3155, January 22, 2015), with new service information.

(1) If, during any inspection required by paragraph (g)(1) of this AD, only one discrepancy (any missing or broken or migrated fastener) is found on the left- or right-side: Before further flight, do corrective actions in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Replacement of fasteners on an airplane does not constitute terminating action for any inspection required by paragraph (g) of this AD.

(2) If, during any inspection required by paragraph (g)(1) of this AD, more than one discrepancy (any missing or broken or migrated fastener) is found on the left- or right-side: Before further flight, replace all affected fasteners on the affected side(s), in accordance with Airbus AOT A57N006–14, Revision 00, dated December 4, 2014; or Airbus AOT A57N006–14, Revision 01, dated February 16, 2015. One fastener per side may be missing or broken or migrated provided the applicable actions required by paragraph (h)(1) of this AD are done. Replacement of fasteners on an airplane does not constitute terminating action for any inspection required by paragraph (g) of this AD. As of the effective date of this AD, only use Airbus AOT A57N006–14, Revision 01, dated February 16, 2015, to accomplish the actions required by this paragraph.

**(i) Retained for All Airplanes Except Airbus Model A319–132 Airplanes: Corrective Actions for the Inspections Required by Paragraph (g)(2) of This AD, With New Service Information**

This paragraph restates the requirements of paragraph (i) of AD 2014–26–53, Amendment 39–18068 (80 FR 3155, January 22, 2015), with new service information.

(1) If, during any inspection required by paragraph (g)(2) of this AD, only one discrepancy (any missing or broken nut or fastener tail) is found on the left- or right-side: Before further flight, do corrective actions in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Replacement of fasteners on an airplane does not constitute terminating action for any inspection required by paragraph (g) of this AD.

(2) If, during any inspection required by paragraph (g)(2) of this AD, more than one discrepancy (any missing or broken nut or fastener tail) is found on the left- or right-side: Before further flight, replace all affected fasteners on the affected side(s), in accordance with Airbus AOT A57N006–14, Revision 00, dated December 4, 2014; or Airbus AOT A57N006–14, Revision 01, dated February 16, 2015. One fastener per side may be missing or broken or migrated provided the applicable actions required by paragraph (i)(1) of this AD are done. Replacement of fasteners on an airplane does not constitute terminating action for any inspection required by paragraph (g) of this AD. As of the effective date of this AD, only use Airbus AOT A57N006–14, Revision 01, dated February 16, 2015, to accomplish the actions required by this paragraph.

**(j) Retained for All Airplanes Except Airbus Model A319–132 Airplanes: Repetitive Inspections of the Outboard MLG Support Rib Lower Flange, With New Service Information**

This paragraph restates the requirements of paragraph (g) of AD 2015–03–02, Amendment 39–18098 (80 FR 6897, February 9, 2015), with new service information. For Airbus Model A319–115, A319–133, A320–214, A320–232, and A320–233 airplanes: Within 4 months after February 24, 2015 (the effective date of AD 2015–03–02), or within 4 months after the date of issuance of the original certificate of airworthiness or the original export certificate of airworthiness, or before further flight for any airplane that is not in operation for more than 4 months, whichever occurs latest: Do a detailed visual inspection of the left and right outboard MLG support rib lower flange to detect any discrepancy (broken or missing fastener tails or nuts), in accordance with Airbus AOT A57N006–14, Revision 00, dated December 4,

2014; or Airbus AOT A57N006–14, Revision 01, dated February 16, 2015. Repeat the inspection thereafter at intervals not to exceed 4 months. As of the effective date of this AD, only use Airbus AOT A57N006–14, Revision 01, dated February 16, 2015, for the actions required by this paragraph.

**(k) Retained for All Airplanes Except Airbus Model A319–132 Airplanes: Corrective Actions for the Inspections Required by Paragraph (j) of This AD, With New Service Information**

This paragraph restates the requirements of paragraph (h) of AD 2015–03–02, Amendment 39–18098 (80 FR 6897, February 9, 2015), with new service information. If, during any inspection required by paragraph (j) of this AD, any discrepancy is found on the left or right outboard MLG support rib lower flange: Before further flight, replace all affected fasteners on the affected side(s), in accordance with Airbus AOT A57N006–14, Revision 00, dated December 4, 2014; or Airbus AOT A57N006–14, Revision 01, dated February 16, 2015. Replacement of fasteners on an airplane does not constitute terminating action for the repetitive inspections required by paragraph (j) of this AD. As of the effective date of this AD, only use Airbus AOT A57N006–14, Revision 01, dated February 16, 2015, for the actions required by this paragraph.

**(l) For Airbus Model A319–132 Airplanes: New Repetitive Inspections of External Surface of Wing Lower Skin and Inboard MLG Support Rib Lower Flange**

For Airbus Model A319–132 airplanes: Within 60 days after the effective date of this AD, or within 60 days since the date of issuance of the original certificate of airworthiness or the original export certificate of airworthiness, or before further flight for any airplane that is not in operation for more than 60 days, whichever occurs later: Do the inspections required by paragraphs (l)(1) and (l)(2) of this AD, in accordance with Airbus AOT A57N006–14, Revision 01, dated February 16, 2015. Repeat the inspections thereafter at intervals not to exceed 60 days.

(1) Do a detailed visual inspection of the external surface of the left-hand and right-hand wing lower skin surface to detect missing or broken or migrated fasteners.

(2) Do a detailed visual inspection of the inboard MLG support rib lower flange to detect missing or broken nuts or fastener tails.

**(m) For Airbus Model A319–132 Airplanes: Corrective Actions for the Inspections Required by Paragraph (l)(1) of This AD**

(1) If, during any inspection required by paragraph (l)(1) of this AD, only one discrepancy (any missing or broken or migrated fastener) is found on the left- or right-side: Before further flight, do corrective actions in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Replacement of fasteners on an airplane does not constitute terminating action for any inspection required by paragraph (l) of this AD.

(2) If, during any inspection required by paragraph (l)(1) of this AD, more than one discrepancy (any missing or broken or migrated fastener) is found on the left- or right-side: Before further flight, replace all affected fasteners on the affected side(s), in accordance with Airbus AOT A57N006–14, Revision 01, dated February 16, 2015. One fastener per side may be missing or broken or migrated provided the applicable actions required by paragraph (m)(1) of this AD are done. Replacement of fasteners on an airplane does not constitute terminating action for any inspection required by paragraph (l) of this AD.

**(n) For Airbus Model A319–132 Airplanes: Corrective Actions for the Inspections Required by Paragraph (l)(2) of This AD**

(1) If, during any inspection required by paragraph (l)(2) of this AD, only one discrepancy (any missing or broken nut or fastener tail) is found on the left- or right-side: Before further flight, do corrective actions in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Replacement of fasteners on an airplane does not constitute terminating action for any inspection required by paragraph (l) of this AD.

(2) If, during any inspection required by paragraph (l)(2) of this AD, more than one discrepancy (any missing or broken nut or fastener tail) is found on the left- or right-side: Before further flight, replace all affected fasteners on the affected side(s), in accordance with Airbus AOT A57N006–14, Revision 01, dated February 16, 2015. One fastener per side may be missing or broken or migrated provided the applicable actions required by paragraph (n)(1) of this AD are done. Replacement of fasteners on an airplane does not constitute terminating action for any inspection required by paragraph (l) of this AD.

**(o) For Airbus Model A319–132 Airplanes: New Repetitive Inspections of Outboard MLG Support Rib Lower Flange**

For Airbus Model A319–132 airplanes: Within 4 months after the effective date of this AD, or within 4 months after the date of issuance of the original certificate of airworthiness or the original export certificate of airworthiness, or before further flight for any airplane that is not in operation for more than 4 months, whichever occurs later: Do a detailed visual inspection of the left and right outboard MLG support rib lower flange to detect any discrepancy (broken or missing fastener tails or nuts), in accordance with Airbus AOT A57N006–14, Revision 01, dated February 16, 2015. Repeat the inspection thereafter at intervals not to exceed 4 months.

**(p) For Airbus Model A319–132 Airplanes: Corrective Actions for the Inspections Required by Paragraph (o) of This AD**

If, during any inspection required by paragraph (o) of this AD, any discrepancy is found on the left or right outboard MLG support rib lower flange: Before further flight, replace all affected fasteners on the affected side(s), in accordance with Airbus AOT A57N006–14, Revision 01, dated February 16, 2015. Replacement of fasteners on an airplane does not constitute terminating action for the repetitive inspections required by paragraph (o) of this AD.

**(q) Credit for Previous Actions**

This paragraph provides credit for actions required by paragraphs (l), (m)(2), (n)(2), (o), and (p) of this AD, if those actions were performed before the effective date of this AD using Airbus AOT A57N006–14, Revision 00, dated December 4, 2014, which was incorporated by reference in AD 2014–26–53, Amendment 39–18068 (80 FR 3155, January 22, 2015).

**(r) Other FAA AD Provisions**

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149. Information may be emailed to: *9–ANM–116–AMOC–REQUESTS@faa.gov.*

(i) 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.

(ii) AMOCs approved previously for AD 2014–26–53, Amendment 39–18068 (80 FR 3155, January 22, 2015); and AD 2015–03–02, Amendment 39–18098 (80 FR 6897, February 19, 2015); are approved as AMOCs for the corresponding provisions of this AD.

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

**(s) Special Flight Permits**

Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), are not allowed.

**(t) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2015–0026, dated February 19, 2015, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0930.

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

**(u) Material Incorporated by Reference**

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

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

(i) Airbus Alert Operators Transmission A57N006–14, Revision 01, dated February 16, 2015.

(ii) Reserved.

(3) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

(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 April 14, 2015.

**Michael Kaszycki,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2015–09465 Filed 4–24–15; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

**[TD 9717]**

**RIN 1545–BL77**

## Allocation of Controlled Group Research Credit; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final and temporary regulations; correction.

**SUMMARY:** This document contains corrections to final regulations (TD 9717) that were published in the **Federal Register** on Friday, April 3, 2015 (80 FR 18096). The final regulations are relating to the allocation of the credit for increasing research activities (research credit) to corporations and trades or businesses under common control (controlled groups).

**DATES:** This correction is effective April 27, 2015 and applicable April 3, 2015.

**FOR FURTHER INFORMATION CONTACT:** James Holmes at (202) 317–4137 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Background

The final regulations (TD 9717) that are the subject of this correction is under section 41 of the Internal Revenue Code.

### Need for Correction

As published, the final regulation (TD 9717) contains errors that may prove to be misleading and are in need of clarification.

### Correction of Publication

Accordingly, the final regulation (TD 9717), that are the subject of FR Doc. 2015–07331, are corrected as follows:

1. On page 18096, in the preamble, under paragraph heading ''Background,'' the last line, ''Act'' is corrected to read ''American Taxpayer Relief Act of 2012, PL 112–240, H. R. 8 (the ''Act'').

2. On page 18097, in the third column, under the paragraph heading ''Explanation of Provisions'', the first full paragraph, fourth line of the paragraph, ''credit determined under 41(a) for a'' is corrected to read ''credit determined under section 41(a) for a''.

**Martin V. Franks,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).*

[FR Doc. 2015–09604 Filed 4–24–15; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

**[TD 9715]**

**RIN 1545–BH31**

## Regulations Revising Rules Regarding Agency for a Consolidated Group; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains corrections to final regulations (TD 9715) that were published in the **Federal Register** on April 1, 2015 (80 FR 17314). The final regulations are regarding the agent for an affiliated group of corporations that files a consolidated return (consolidated group).

**DATES:** This correction is effective on April 27, 2015 and applicable April 1, 2015.

**FOR FURTHER INFORMATION CONTACT:** Gerald Fleming at (202) 317–6975 or Richard M. Heinecke at (202) 317–6065 (not a toll free number).

**SUPPLEMENTARY INFORMATION:**

### Background

The final regulations (TD 9715) that are the subject of this correction is under section 1502 of the Internal Revenue Code.

### Need for Correction

As published, the final regulations (TD 9715) contain errors that may prove to be misleading and are in need of clarification.

### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

### Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

## 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 1.1502–77 is amended by revising the second sentence of paragraph (c)(1) and the first sentence of paragraph (g) to read as follows:

**§ 1.1502–77 Agent for the group.**

* * * * *

(c) * * * (1) * * * Except as specifically provided otherwise in this paragraph (c), any entity that is an agent pursuant to paragraph (c)(3) of this section (agent following group structure change), paragraph (c)(5) of this section (agent designated by agent terminating without default successor), paragraph (c)(6) of this section (agent designated by Commissioner), or paragraph (c)(7) of this section (agent designated by resigning agent), or any entity subsequently serving as agent following such agent, acts as an agent for and under the same terms and conditions that apply to a common parent. * * *

* * * * *

(g) *Examples.* Unless otherwise indicated, all entities are domestic and have a calendar year taxable year, and each of P, S, S–1, S–2, S–3, T, U, V, W,

W–1, Y, Z, and Z–1 is a corporation.
* * *

* * * * *

**Martin V. Franks,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. 2015–09711 Filed 4–24–15; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

**[TD 9717]**

**RIN 1545–BL77**

### Allocation of Controlled Group Research Credit; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains corrections to final regulations (TD 9717) that were published in the **Federal Register** on Friday, April 3, 2015 (80 FR 18096). The final regulations are relating to the allocation of the credit for increasing research activities (research credit) to corporations and trades or businesses under common control (controlled groups).

**DATES:** This correction is effective April 27, 2015 and applicable April 3, 2015.

**FOR FURTHER INFORMATION CONTACT:** James Holmes at (202) 317–4137 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The final regulations (TD 9717) that are the subject of this correction is under section 41 of the Internal Revenue Code.

**Need for Correction**

As published, the final regulations (TD 9717) contain errors that may prove to be misleading and are in need of clarification.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

*Correction of Publication*

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

**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 1.45G–1 is amended by revising paragraphs (f)(5) and (g)(4) and (5) to read as follows:

**§ 1.45G–1 Railroad track maintenance credit.**

* * * * *

(f) * * *

(5) [Reserved]. For further guidance, see § 1.45G–1T(f)(5).

* * * * *

(g) * * *

(4) *Taxable years beginning after December 31, 2011.* [Reserved]. For further guidance, see § 1.45G–1T(g)(4).

(5) *Taxable years beginning before January 1, 2012.* [Reserved]. For further guidance, see § 1.45G–1T(g)(4).

**Martin V. Franks,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).*

[FR Doc. 2015–09603 Filed 4–24–15; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Parts 1 and 602

**[TD 9715]**

**RIN 1545–BH31**

### Regulations Revising Rules Regarding Agency for a Consolidated Group; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations; correction.

**SUMMARY:** This document contains corrections to final regulations (TD 9715) that were published in the **Federal Register** on April 1, 2015 (80 FR 17314). The final regulations are regarding the agent for an affiliated group of corporations that files a consolidated return (consolidated group).

**DATES:** This correction is effective on April 27, 2015 and applicable beginning April 1, 2015.

**FOR FURTHER INFORMATION CONTACT:** Gerald Fleming at (202) 317–6975 or Richard M. Heinecke at (202) 317–6065 (not a toll free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The final regulations (TD 9715) that are the subject of this correction are under section 1502 of the Internal Revenue Code.

**Need for Correction**

As published, the final regulations (TD 9715) contain an error that may prove to be misleading and is in need of clarification.

**Correction of Publication**

Accordingly, the final regulations (TD 9715), that are the subject of FR Doc. 2015–07182, are corrected as follows:

1. On page 17316, in the preamble, the second column, under the paragraph heading ''A. Designation on Commissioner's Own Accord'', the eighth line from the bottom of the paragraph, the language ''where the agent either fails timely'' is corrected to read ''where the agent either fails to timely''.

**Martin V. Franks,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).*

[FR Doc. 2015–09712 Filed 4–24–15; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 117

**[Docket No. USCG–2015–0249]**

### Drawbridge Operation Regulation; Lake Washington Ship Canal, Seattle, WA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Washington State Department of Transportation Montlake Bridge across the Lake Washington Ship Canal, mile 5.2, at Seattle, WA. The deviation is necessary to facilitate the safe and rapid movement of University of Washington Husky football game spectators. This deviation allows the bridge to remain in the closed-to-navigation position.

**DATES:** This deviation is effective from 10 a.m. to 3 p.m. on April 25, 2015.

**ADDRESSES:** The docket for this deviation, [USCG–2015–0249] 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 Mr. Steven Fischer, Bridge Administrator, Thirteenth Coast Guard District; telephone 206–220–7282, email *d13-pf-d13bridges@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:** The Washington State Department of Transportation has requested that the Montlake Bridge remain in the closed-to-navigation position to accommodate the rapid movement of highway traffic associated with the University of Washington Football game on April 25, 2015. The Montlake Bridge across the Lake Washington Ship Canal at mile 5.2 and while in the closed position provides 30 feet of vertical clearance throughout the navigation channel and 46 feet of vertical clearance throughout the center 60-feet of the bridge; vertical clearance references to the Mean Water Level of Lake Washington. Under normal conditions this bridge operates in accordance with 33 CFR 117.1051(e) which requires the bridge to open on signal, except that the bridge need not open for vessels less than 1,000 gross tons between 7 a.m. and 9 a.m. and 3:30 p.m. and 6:30 p.m. Monday through Friday. This deviation period is from 10:00 a.m. to 3:00 p.m. April 25, 2015. The deviation allows the bascule span of the Montlake Bridge to remain in the closed to navigation position from 10 a.m. to 3 p.m. on April 25, 2015. Waterway usage on the Lake Washington Ship Canal ranges from commercial tug and barge to small pleasure craft.

Vessels able to pass through the bridge in the closed positions may do so at any time. The bridge will be able to open for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: April 20, 2015.

**Steve Fischer,**

*Bridge Administrator, Thirteenth Coast Guard District.*

[FR Doc. 2015–09643 Filed 4–24–15; 8:45 am]

**BILLING CODE 9110–04–P**

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Parts 1 and 17

**RIN 2900–AP17**

### Updating Certain Delegations of Authority in VA Medical Regulations

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is making technical amendments to its medical regulations by updating certain delegations of authority to be consistent with the statutory authority that established the Consolidated Patient Account Centers (CPACs). VA is, through this final rule, specifying delegations of authority for the collection of debts owed VA to the Chief Financial Officers of the CPACs.

**DATES:** *Effective date:* This final rule is effective April 27, 2015.

**FOR FURTHER INFORMATION CONTACT:** Kristin J. Cunningham, Director Business Policy, Chief Business Office (10NB6), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; (202) 382–2508. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** This rulemaking amends VA's regulations in title 38 Code of Federal Regulations (CFR) that delegate authority for the collection of debts owed to VA for medical care or services provided or furnished to a veteran for a nonservice-connected disability to the Fiscal Officer or the Chief of the Fiscal Activity at the VA medical facility responsible for the collection of the debt or the station where the debt occurred. Consistent with the requirements of 38 U.S.C. 1729B, VA established seven Consolidated Patient Account Centers (CPACs), whose function is to centralize the billing and collection activities of VA medical facilities related to medical care (commonly referred to as ''revenue activity''). Creation of the CPACs has allowed VA to uniformly address revenue activities and improve service to veterans.

This rulemaking amends our regulations to be consistent with 38 U.S.C. 1729B, which required VA to establish the CPACs, and current practice to specify that, for medical care revenue activities, the responsibility for collection of a medical debt belongs to the CPAC, rather than the Fiscal Officer or Chief of the Fiscal Activity at the medical facility or station. We also are clarifying that the Chief of the Fiscal Activity of a VA facility or the Chief of the Fiscal Activity of the station where the debt occurred is no longer the responsible individual for the fiscal activities of such facility or station because these fiscal activities fall under the purview of the Chief Financial Officer of the corresponding CPAC. This rulemaking amends §§ 1.956(a)(2)(iv), 17.103(a), 17.104(a), and 17.105(c).

Current § 1.956(a)(2)(iv) states that fiscal officers at VA medical facilities are authorized to waive veterans' debts arising from medical care copayments (§ 17.105(c)). Consistent with 38 U.S.C. 1729B and under current practice, the CPACs are responsible for waiving debts related to medical care copayments, not the individual VA medical facilities. We are amending § 1.956(a)(2)(iv) to clarify that the Chief Financial Officer of the Consolidated Patient Account Center is authorized to waive veterans' debts arising from medical care copayments (§ 17.105(c).

Current § 17.103(a) states that compromise offers for debts of charges made under § 17.101(a) shall be referred to the Chief of the Fiscal activity of the facility for application of the collection standards in § 1.900 *et seq.* The reference to § 17.101(a) is incorrect. A veteran is not responsible for charges billed to an insurance company under the methodology in § 17.101. Only the General Counsel and those authorized to act for the General Counsel have the authority to compromise or waive a claim arising under 38 U.S.C. 1729 and 38 CFR 17.101. The application of the collection standards in § 1.900 *et seq.* are primarily focused on benefit debt, including copayment debt and employee debt. The reference to § 17.101(a) was added in error by a final rule published by VA in 1996, 61 FR 21964. The correct reference in § 17.103(a) should be to the copayment provisions of §§ 17.108, 17.110 or 17.111. Accordingly, we are amending paragraph (a), introductory text, by removing the references made to the debt that represents charges made under § 17.101(a), and the Chief of the Fiscal activity of the facility to refer instead to the debt representing charges made

under §§ 17.108, 17.110 or 17.111, and the Chief Financial Officer of the Consolidated Patient Account Center (CPAC) to make the statement in line with the authorizing statute for the CPAC. We are also amending the heading of § 17.103(a) to refer to the ''Chief Financial Officers of the Consolidated Patient Account Centers'' in order to correctly state the individual who is responsible for the financial activities of paragraph (a). We are also amending § 17.103(a)(2), which uses the term ''field station.'' As we have stated in this rulemaking, the CPAC is now in charge of activities that were previously done in a field facility. We are, therefore, removing the term ''a field station'' in paragraph (a)(2) and adding, in its place, ''the CPAC.'' We are making a similar amendment in § 17.104(a), which states that questions concerning suspension or termination of collection action shall be referred to the Chief of the Fiscal activity of the station for application of the collection standards in § 1.900 *et seq.* Specifically, we are amending paragraph (a) by removing the reference to § 17.101(a) and (b). As previously stated in this rulemaking, these references are incorrect because the veteran is not responsible for charges under § 17.101; rather, the veteran is responsible for charges under §§ 17.108, 17.110 or 17.111. We are also amending the term ''Chief of the Fiscal activity of the station'' and replacing it with ''Chief Financial Officer of the Consolidated Patient Account Center.''

Paragraph (c) of § 17.105 states that the Fiscal Officer at a VA medical facility where all or part of the debt was incurred will receive claims for waivers, and that the Fiscal Officer may also extend the time period for submitting said waiver. Paragraph (c) also states that a decision rendered by the Fiscal Officer under this provision is final. In an effort to maintain consistency, we are removing the words ''Fiscal Officer at a VA medical facility where all or part of the debt was incurred'' and replacing them with ''the Consolidated Patient Account Center (CPAC) Chief Financial Officer.'' We are also removing the term ''Fiscal Officer'' and replacing the term with ''CPAC Chief Financial Officer'' every time it appears. We are making these changes because the CPACs are now in charge of processing waivers of debts of charges for copayments.

**Administrative Procedure Act**

The Secretary of Veterans Affairs finds that there is good cause under 5 U.S.C. 553(b)(B) and (d)(3) to dispense with the opportunity for notice and public comment and good cause to publish this rule with an immediate effective date. This final rule merely revises VA's regulations so that they align with recent statutory amendments and corrects a citation that was added in error by a prior rulemaking. These are technical revisions only. Therefore, compliance with the notice-and-comment and delayed effective date requirements of 5 U.S.C. 553 is unnecessary.

**Effect of Rulemaking**

Title 38 of the Code of Federal Regulations, as revised by this final rulemaking, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

**Paperwork Reduction Act**

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

**Regulatory Flexibility Act**

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule directly affects only individuals and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

**Executive Orders 12866 and 13563**

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

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov*, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www.va.gov/orpm*, by following the link for VA Regulations Published from FY 2004 through FYTD.

**Unfunded Mandates**

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

**Catalog of Federal Domestic Assistance**

The Catalog of Federal Domestic Assistance program numbers and titles for this rule are as follows: 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; and 64.018, Sharing Specialized Medical Resources.

**Signing Authority**

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose

D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on April 16, 2015, for publication.

**List of Subjects**

*38 CFR Part 1*

Administrative practice and procedure, Archives and records, Cemeteries, Claims, Courts, Crime, Flags, Freedom of information, Government contracts, Government employees, Government property, Infants and children, Inventions and patents, Parking Penalties, Privacy Reporting and recordkeeping requirements, Seals and insignia, Security measures, Wages.

*38 CFR Part 17*

Administrative practice and procedure, Claims, Health care, Health facilities, Health records, Nursing homes, Reporting and recordkeeping requirements, Veterans.

Approved: April 21, 2015.

**Michael Shores,**

*Chief Impact Analyst, Office of Regulation Policy & Management, Office of the General Counsel, Department of Veterans Affairs.*

For the reasons set forth in the preamble, we amend 38 CFR parts 1 and 17 as follows:

## PART 1—GENERAL PROVISIONS

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

**Authority:** 38 U.S.C. 501(a), and as noted in specific sections.

■ 2. Revise § 1.956(a)(2)(iv) to read as follows:

**§ 1.956 Jurisdiction.**

(a) * * *

(2) * * *

(iv) The Chief Financial Officer of the Consolidated Patient Account Center is authorized to waive veterans' debts arising from medical care copayments (§ 17.105(c) of this chapter).

* * * * *

## PART 17—MEDICAL

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

**Authority:** 38 U.S.C. 501, and as noted in specific sections.

**§ 17.103 [Amended]**

■ 4. Amend § 17.103 by:

■ a. In the heading of paragraph (a), removing the term ''Chiefs of Fiscal activities'' and adding, in its place, ''Chief Financial Officers of the Consolidated Patient Account Centers''.

■ b. In paragraph (a) introductory text, removing ''If the debt represents charges made under § 17.101(a), the compromise offer shall be referred to the Chief of the Fiscal activity of the facility'' and adding, in its place, ''If the debt represents charges made under §§ 17.108, 17.110, or 17.111, the compromise offer shall be referred to the Chief Financial Officer of the Consolidated Patient Account Center (CPAC)''.

■ c. In paragraph (a)(2), removing the term ''a field station'' and adding, in its place, ''the CPAC''.

**§ 17.104 [Amended]**

■ 5. Amend § 17.104 by removing from paragraph (a) ''If the debt represents charges made under § 17.101 (a) or (b) questions concerning suspension or termination of collection action shall be referred to the Chief of the Fiscal activity of the station'' and adding, in its place, ''If the debt represents charges made under §§ 17.108, 17.110, or 17.111 questions concerning suspension or termination of collection action shall be referred to the Chief Financial Officer of the Consolidated Patient Account Center''.

■ 6. Revise § 17.105(c) to read as follows:

**§ 17.105 Waivers.**

* * * * *

(c) *Of charges for copayments.* If the debt represents charges for outpatient medical care, inpatient hospital care, medication or extended care services copayments made under §§ 17.108, 17.110, or 17.111, the claimant must request a waiver by submitting VA Form 5655 (Financial Status Report) to the Consolidated Patient Account Center (CPAC) Chief Financial Officer. The claimant must submit this form within the time period provided in § 1.963(b) of this chapter and may request a hearing under § 1.966(a) of this chapter. The CPAC Chief Financial Officer may extend the time period for submitting a claim if the Chairperson of the Committee on Waivers and Compromises could do so under § 1.963(b) of this chapter. The CPAC Chief Financial Officer will apply the standard ''equity and good conscience'' in accordance with §§ 1.965 and 1.966(a) of this chapter, and may waive all or part of the claimant's debts. A decision by the CPAC Chief Financial Officer under this provision is final (except that the decision may be reversed or modified based on new and material evidence, fraud, a change in law or interpretation of law, or clear and unmistakable error shown by the evidence in the file at the time of the prior decision as provided in § 1.969 of this chapter) and may be appealed in accordance with 38 CFR parts 19 and 20.

* * * * *

[FR Doc. 2015–09633 Filed 4–24–15; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 42 CFR Part 37

### Specifications for Medical Examinations of Coal Miners

*CFR Correction*

In Title 42 of the Code of Federal Regulations, Parts 1 to 399, revised as of October 1, 2014, on page 183, in § 37.51, in paragraph (d)(1)(i), remove the text ''P='56734'≤''.

[FR Doc. 2015–09757 Filed 4–24–15; 8:45 am]

BILLING CODE 1505–01–D

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 679

**[Docket No. 141021887–5172–02]**

**RIN 0648–XD918**

### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Bering Sea and Aleutian Islands Management Area

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific ocean perch in the Eastern Aleutian district (EAI) of the Bering Sea and Aleutian Islands management area (BSAI) by vessels participating in the BSAI trawl limited access fishery. This action is necessary to prevent exceeding the 2015 total allowable catch (TAC) of Pacific ocean perch in the EAI allocated to vessels participating in the BSAI trawl limited access fishery.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), April 22, 2015, through 2400 hrs, A.l.t., December 31, 2015.

**FOR FURTHER INFORMATION CONTACT:** Steve Whitney, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone

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

The 2015 TAC of Pacific ocean perch, in the EAI, allocated to vessels participating in the BSAI trawl limited access fishery was established as a directed fishing allowance of 704 metric tons by the final 2015 and 2016 harvest specifications for groundfish in the BSAI (80 FR 11919, March 5, 2015).

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 Pacific ocean perch in the EAI by vessels participating in the BSAI trawl limited access fishery.

After the effective dates 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 a 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 the Pacific ocean perch directed fishery in the EAI for vessels participating in the BSAI trawl limited access fishery. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of April 21, 2015. 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: April 22, 2015.

**Emily H. Menashes,**

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

[FR Doc. 2015–09722 Filed 4–22–15; 4:15 pm]

**BILLING CODE 3510–22–P**

# Proposed Rules

Federal Register
Vol. 80, No. 80
Monday, April 27, 2015

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### 7 CFR Parts 210, 215, 220, and 226

**[FNS–2011–0029]**

**RIN 0584–AE18**

## Child and Adult Care Food Program: Meal Pattern Revisions Related to the Healthy, Hunger-Free Kids Act of 2010; Extension of Comment Period

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** This rule proposes changes to the meal pattern requirements for the Child and Adult Care Food Program (CACFP) to better align the meal patterns with the 2010 Dietary Guidelines for Americans, as required by the Healthy, Hunger-Free Kids Act of 2010 (HHFKA). The proposed changes are based on the Dietary Guidelines for Americans, science-based recommendations made by the Institute of Medicine of the National Academies in the report *Child and Adult Care Food Program: Aligning Dietary Guidance for All,* and input from stakeholders, as well as cost and practical considerations for CACFP institutions and facilities. In addition, this proposal would make additional revisions to the health and wellness components of CACFP to reflect several requirements set forth in the HHFKA, including making changes to the purpose of the Program and making water available to Program participants. Several of these changes would be extended to the National School Lunch Program, School Breakfast Program, and Special Milk Program to increase consistency across all Child Nutrition Programs. Implementation of this proposed rule would serve as a step towards more nutritious meals that improve the dietary habits of participants in day care. The comment period is being extended to provide additional time for interested parties to review this propose rule, to May 27, 2015.

**DATES:** The comment period for the proposed rule that was published on January 15, 2015 (80 FR 2037) has been extended from April 15, 2015 to May 27, 2015. To be assured of consideration, comments must be postmarked on or before May 27, 2015.

**ADDRESSES:** The Food and Nutrition Service (FNS), USDA, invites interested persons to submit comments on this proposed rule. In order to ensure proper receipt, comments may be submitted through one of the following methods only:

- *Preferred method:* Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Written comments should be addressed to Tina Namian, Branch Chief, Policy and Program Development Division, Child Nutrition Programs, Food and Nutrition Service, Department of Agriculture, Post Office Box 66874, St. Louis, Missouri 63166.

Comments sent by other methods not listed above will not be able to be accepted and subsequently not posted. Comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. USDA will make the comments publicly available on the Internet via *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Tina Namian, Branch Chief, Policy and Program Development Division, Child Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 1206, Alexandria, Virginia 22302–1594, 703–305–2590.

**SUPPLEMENTARY INFORMATION:**

### Background

This proposed rule sets forth proposed revisions to implement amendments made to Section 17 of the Richard B. Russell National School Lunch Act (NSLA), 42 U.S.C. 1766, by section 221 of Public Law 111–296, the Healthy, Hunger-Free Kids Act of 2010 (HHFKA), for day care institutions participating in the Child and Adult Care Food Program (CACFP), schools serving infants and young children, ages four and under, who participate in the School Breakfast Program (SBP) or National School Lunch Program (NSLP), and schools and institutions serving children of all ages who participate in the Special Milk Program (SMP).

The amendments made by the HHFKA require the Department of Agriculture (USDA) through its CACFP to promote health and wellness in child care settings through guidance and technical assistance that focuses on nutrition, physical activity, and limiting electronic media use. More specifically, the amendments to the NSLA made by the HHFKA require USDA to review the CACFP meal patterns and make them consistent with (a) the most recent version of the Dietary Guidelines for Americans, (b) the most recent relevant nutrition science, and (c) appropriate authoritative scientific agency and organization recommendations. These updates should occur no less frequently than every 10 years. As the Dietary Guidelines and science evolve, USDA will continue to provide guidance, as needed, to support CACFP's nutrition and wellness goals. In formulating this proposed rule, the USDA relied primarily on recommendations included in the *Dietary Guidelines for Americans, 2010,* and *Child and Adult Care Food Program: Aligning Dietary Guidance for All,* a 2010 report prepared for USDA by the Institute of Medicine (IOM) of the National Academies, *http://www.iom.edu/Reports/2010/Child-and-Adult-Care-Food-Program-Aligning-Dietary-Guidance-for-All.aspx.* In reviewing the recommendations, USDA recognized that changes to the meal pattern must be sensitive to cost and practical application. With this in mind, a number of revisions to the meal pattern have been proposed, as well as optional best practices that facilities may choose to implement. The comment period is extended to provide additional time for interested parties to review and submit comments on the proposed meal pattern changes until May 27, 2015.

Dated: April 20, 2015.

**Audrey Rowe,**

*Administrator, Food and Nutrition Service.*

[FR Doc. 2015–09720 Filed 4–24–15; 8:45 am]

BILLING CODE 3410–30–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2015–0868; Directorate Identifier 97–ANE–42–AD**

**RIN 2120–AA64**

## Airworthiness Directives; Lycoming Engines Reciprocating Engines

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** The FAA is withdrawing a notice of proposed rulemaking (NPRM). The NPRM proposed a new airworthiness directive (AD) that had applied to certain Lycoming Engines (type certificate formerly held by Textron Lycoming) with Superior Air Parts, Inc. (SAP), piston pins installed. The NPRM had applied to those engines using SAP piston pins, part number (P/N) 13444–1. The proposed action would have required removal of defective SAP piston pins, P/N 13444–1, from service. Since we issued the NPRM, we have learned that all the affected piston pins have been removed from service. We also found that SAP has revised its manufacturing process so that the subsequent piston pins were no longer susceptible to cracking. Accordingly, we withdraw the proposed rule.

**DATES:** As of April 27, 2015, the proposed rule published February 18, 1998 at 63 FR 8149 is withdrawn.

**FOR FURTHER INFORMATION CONTACT:** Peter W. Hakala, Aerospace Engineer, Ft. Worth Aircraft Certification Office, FAA, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, TX 76137; phone: 817–222–5145; fax: 817–222–5785; email: *peter.w.hakala@faa.gov.*

**SUPPLEMENTARY INFORMATION:** The FAA proposed to amend 14 CFR part 39 with a proposed AD (63 FR 8149, February 18, 1998). The proposed AD had applied to certain Lycoming Engines with SAP piston pins installed. The NPRM proposed to require removing certain defective piston pins from service. The proposed action was prompted by reports of defective piston pins. The proposed actions were intended to prevent a piston pin fracture from allowing a connecting rod and free piston to damage an aluminum cylinder head or an engine case. This could result in the loss of oil leading to total power failure and a possible engine fire. Also, a loose connecting rod could possibly puncture the engine case or jam the engine crankshaft, resulting in a catastrophic engine failure.

Since we issued the NPRM (63 FR 8149, February 18, 1998), additional information became available after the public comment period closed on March 20, 1998.

Upon further consideration, we hereby withdraw the proposed rule for the following reasons:

- All the suspect defective piston pins, P/N 1344–1, manufactured by SAP, were taken out of service in 1998.
- SAP changed its machining and grinding procedures in 1998 so that the affected piston pins were no longer susceptible to micro-cracks.

Withdrawal of the NPRM (63 FR 8149, February 18, 1998) constitutes only such action, and does not preclude the agency from issuing another notice in the future, nor does it commit the agency to any course of action in the future.

Since this action only withdraws a notice of proposed rulemaking, it is neither a proposed nor a final rule. Therefore, Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979) do not cover this withdrawal.

### List of Subjects in 14 CFR Part 39

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

### The Withdrawal

Accordingly, the notice of proposed rulemaking, Docket No. FAA–2015–0868; Directorate Identifier 97–ANE–42–AD, published in the **Federal Register** on February 18, 1998 (63 FR 8149), is withdrawn.

Issued in Burlington, Massachusetts, on April 15, 2015.

**Colleen M. D'Alessandro,**

*Assistant Manager, Engine & Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 2015–09535 Filed 4–24–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

**[REG–133489–13]**

**RIN 1545–BL76**

## Allocation of Controlled Group Research Credit; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary and notice of public hearing; correction.

**SUMMARY:** This document contains corrections to notice of proposed rulemaking by cross-reference to temporary and notice of public hearing (REG–133489–13) that were published in the **Federal Register** on Friday, April 3, 2015 (80 FR 18171). The notice of proposed rulemaking by cross-reference to temporary and notice of public hearing are relating to the allocation of the credit for increasing research activities (research credit) to corporations and trades or businesses under common control (controlled groups).

**DATES:** This correction is effective April 27, 2015 and applicable April 3, 2015.

**FOR FURTHER INFORMATION CONTACT:** James Holmes at (202) 317–4137 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Background

The notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing (REG–133489–13) is the subjected to the correction under section 41 of the Internal Revenue Code.

### Need for Correction

As published, the notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing (REG–133489–13) contains an error that may prove to be misleading and are in need of clarification.

### Correction of Publication

Accordingly, the notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing (REG–133489–13) that is subject to FR Doc. 2015–07380, is corrected as follows:

1. On page 18171, in the preamble, second column, under the caption Background, fifth line from the bottom, the language ''Act'' is corrected to read ''American Taxpayer Relief Act of 2012, P L 112–240, H. R. 8 (the ''Act'')''.

**Martin V. Franks,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. 2015–09605 Filed 4–24–15; 8:45 am]

**BILLING CODE 4830–01–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA–R06–OAR–2014–0378; FRL–9926–93–Region 6]**

## Approval and Promulgation of Implementation Plans; Arkansas; Prevention of Significant Deterioration; Greenhouse Gas Plantwide Applicability Limit Permitting Revisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve one revision to the Arkansas State Implementation Plan (SIP) submitted by the Arkansas Governor to the EPA on January 7, 2014. This submittal revises the Arkansas Prevention of Significant Deterioration (PSD) Permitting Program to incorporate by reference federal plantwide applicability limit (PAL) permitting provisions to enable the State of Arkansas to issue PSD PALs to sources with greenhouse gas (GHG) emissions. The EPA is proposing to find that the January 7, 2014 revision to the Arkansas SIP is consistent with federal requirements for PSD permitting. The EPA is also proposing ministerial changes to the Code of Federal Regulations (CFR) to reflect recent EPA SIP approvals to the Arkansas PSD program and to show that SIP deficiencies identified in prior partial disapprovals have been addressed. We are proposing this action under section 110 and part C of title I of the Clean Air Act (CAA or the Act).

**DATES:** Written comments should be received on or before May 27, 2015.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA–R06–OAR–2014–0378, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions.
- *Email:* Ms. Adina Wiley at *wiley.adina@epa.gov.*
- *Mail or delivery:* Ms. Adina Wiley, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

*Instructions:* Direct your comments to Docket ID No. EPA–R06–OAR–2014–0378. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or email, if you believe that it is CBI or otherwise protected from disclosure. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means that the 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 the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment along with any disk or CD–ROM submitted. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

*Docket:* The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI).

**FOR FURTHER INFORMATION CONTACT:** Ms. Adina Wiley, (214) 665–2115, *wiley.adina@epa.gov.* To inspect the hard copy materials, please schedule an appointment with Ms. Adina Wiley or Mr. Bill Deese at (214) 665–7253.

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

### Table of Contents

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A. Summary of the EPA's Tailoring Rule and GHG PALs Rule
B. Summary of the January 7, 2014 Arkansas SIP Submittal
C. Ministerial Changes to the CFR
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III. Proposed Action
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

### I. Background

The Act at section 110(a)(2)(C) requires states to develop and submit to the EPA for approval into the state SIP, preconstruction review and permitting programs applicable to certain new and modified stationary sources of air pollutants for attainment and nonattainment areas that cover both major and minor new sources and modifications, collectively referred to as the New Source Review (NSR) SIP. The CAA NSR SIP program is composed of three separate programs: Prevention of Significant Deterioration (PSD), Nonattainment New Source Review (NNSR), and Minor NSR. PSD is established in part C of title I of the CAA and applies in areas that meet the National Ambient Air Quality Standard (NAAQS)—''attainment areas''—as well as areas where there is insufficient information to determine if the area meets the NAAQS—''unclassifiable areas.'' The NNSR SIP program is established in part D of title I of the CAA and applies in areas that are not in attainment of the NAAQS—''nonattainment areas.'' The Minor NSR SIP program addresses construction or modification activities that do not emit, or have the potential to emit, beyond certain major source thresholds, and thus do not qualify as ''major,'' and applies regardless of the designation of the area in which a source is located. The EPA regulations governing the criteria that states must satisfy for EPA approval of the NSR programs as part of the SIP are contained in 40 CFR 51.160–51.166.

#### *A. Summary of the EPA's Tailoring Rule and GHG PALs Rule*

On June 3, 2010, the EPA issued a final rule, known as the Tailoring Rule, which phased in permitting requirements for GHG emissions from stationary sources under the CAA PSD and title V permitting programs (75 FR 31514). For Step 1 of the Tailoring Rule, which began on January 2, 2011, PSD or title V requirements applied to sources of GHG emissions only if the sources were subject to PSD or title V ''anyway'' due to their emissions of non-GHG pollutants. These sources are referred to as ''anyway sources.'' Step 2 of the Tailoring Rule, which began on July 1, 2011, applied the PSD and title V permitting requirements under the CAA to sources that were classified as major, and, thus, required to obtain a permit, based solely on their potential GHG emissions and to modifications of otherwise major sources that required a

PSD permit because they increased only GHG above applicable levels in the EPA regulations.

On July 12, 2012, the EPA promulgated the final ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule Step 3 and GHG Plantwide Applicability Limits'' (GHG Tailoring Rule Step 3 and GHG PALs).[1] 77 FR 41051. In the Tailoring Rule Step 3 portion of this rule, the EPA decided against further phase in of the PSD and Title V requirements to apply to sources emitting lower levels of greenhouse gas emissions. Thus, the thresholds for determining PSD applicability based on emission of greenhouse gases remained the same as established in Step 2 of the Tailoring Rule. The Step 3 portions of the EPA's July 12, 2012 final rule are not relevant to today's proposed action on the Arkansas SIP revision.

The GHG PALs portion of the July 12, 2012 final rule promulgated revisions to the EPA regulations under 40 CFR part 52 for establishing PALs for GHG emissions. For a full discussion of the EPA's rationale for the GHG PALs provisions, see the notice of final rulemaking at 77 FR 41051. A PAL establishes a site-specific plantwide emission level for a pollutant that allows the source to make changes at the facility without triggering the requirements of the PSD program, provided that emissions do not exceed the PAL level. Under the EPA's interpretation of the federal PAL provisions, such PALs are already available under PSD for non-GHG pollutants and for GHGs on a mass basis, and the EPA revised the PAL regulations to allow for GHG PALs to be established on a carbon dioxide equivalent (CO2e) basis as well. See 77 FR 41052. The EPA finalized these revisions in an effort to streamline federal and SIP PSD permitting programs by allowing sources and permitting authorities to address GHGs using a PAL in a manner similar to the use of PALs for non-GHG pollutants. See 77 FR 41051, 41052.

[1] For a complete history of EPA's rulemakings related to GHG emissions please review the following final actions: ''Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act.'' 74 FR 66496 (December 15, 2009).

''Interpretation of Regulations that Determine Pollutants Covered by Clean Air Act Permitting Programs.'' 75 FR 17004 (April 2, 2010).

Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule.'' 75 FR 25324 (May 7, 2010).

Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule.'' 75 FR 31514 (June 3, 2010).

*B. Summary of the January 7, 2014 Arkansas SIP Submittal*

On April 2, 2013, the EPA approved a revision to the Arkansas SIP providing the State of Arkansas the authority to regulate and permit emissions of GHGs under the Arkansas PSD Program and simultaneously rescinded the GHG PSD FIP for Arkansas. See 78 FR 19596. Arkansas submitted on January 7, 2014, regulations specific to the Arkansas GHG PSD permitting program for approval by the EPA into the Arkansas SIP. The January 7, 2014, SIP revision submittal includes the PSD permitting provisions that were adopted on June 28, 2013, at the Arkansas Pollution Control and Ecology Commission's (''Commission'') Regulation Number 19, Regulations of the Arkansas Plan of Implementation for Air Pollution Control (hereinafter Regulation 19 at 19.904(A)(1) and (G)(1) that provide the Arkansas Department of Environmental Quality (ADEQ) the ability to issue GHG PSD PALs consistent with the ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule Step 3 and GHG Plantwide Applicability Limits Final Rule'' (77 FR 41051). The January 7, 2014 submittal also included a non-substantive revision to the Regulation 19.904(E)(3) to correct a reference to federal air quality models for PSD permitting. Today's proposal and the accompanying Technical Support Document (TSD) present our rationale for approving these regulations as meeting the minimum federal requirements for the adoption and implementation of the PSD SIP permitting programs.

*C. Ministerial Changes to the CFR*

We are proposing ministerial changes to 40 CFR 52.170(e) and 40 CFR 52.172(b) which reflect that deficiencies identified in in our partial disapproval of ADEQ's December 17, 2007 and March 28, 2008 SIP submittals for the 1997 8-hour ozone NAAQS have been adequately addressed by the State. We are proposing the changes because we fully approved the revisions to the Arkansas PSD program providing the authority to regulate and permit emissions of GHGs on April 2, 2013 (78 FR 19596). As a result of our full approval of the Arkansas PSD program for GHGs, the partial disapproval is no longer applicable.

We are also proposing a ministerial change to 40 CFR 52.181(a) to show that the EPA approved a revision to the Arkansas PSD program on April 2, 2013, to provide the state the authority to regulate and permit GHGs. See 78 FR 19596.

**II. The EPA's Evaluation**

The EPA's most recent approval to the Arkansas PSD program was on March 4, 2015, where we updated our approval of the Arkansas PSD program to include the December 1, 2014 submitted revisions to provide the ADEQ the authority to regulate and permit emissions of fine particulate matter and its precursors consistent with federal requirements. Our March 4, 2015 final action did not address the pending submittal regarding the GHG PSD PALs submitted on January 7, 2014. See 80 FR 11573.

The State of Arkansas has adopted and submitted one revision to the PSD program on January 7, 2014, affecting Regulation 19.904—Adoption of Regulations, Sections 19.904(A)(1), (E)(3), and (G)(1). The revisions to Regulation 19.904(A)(1) and (G)(1) have been submitted to provide for the issuance of GHG PSD PAL permits through the incorporation by reference of the federal regulations at 40 CFR 52.21(aa) and the adoption of revisions to the definition of ''Greenhouse gases'' that are consistent with the requirements promulgated by EPA in our final rule on July 12, 2012, titled ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule Step 3 and GHG Plantwide Applicability Limits.'' See 77 FR 41501. In addition, the revision to Regulation 19.904(E)(3) updates a reference to the federal air quality models used for PSD permitting.

The ADEQ has adopted and submitted regulations that are consistent with the federal regulations for the permitting of GHG-emitting sources through a GHG PSD PAL effective as of August 13, 2012. The detailed analysis in our TSD demonstrates that the revisions to Regulation 19.904(A)(1) incorporate by reference the GHG PSD PAL provisions at 40 CFR 52.21(aa), effective on August 13, 2012. The revisions to Regulation 19.904(G)(1) revise the Arkansas PSD SIP provisions for GHG PSD permitting to amend the definition of ''GHGs'' to mirror the provisions promulgated by the EPA on July 12, 2012, effective on August 13, 2012, for the issuance of GHG PSD PALs.

On June 23, 2014, the United States Supreme Court, in *Utility Air Regulatory Group* v. *Environmental Protection Agency*,[2] issued a decision addressing the application of PSD permitting requirements to GHG emissions. The Supreme Court said that the EPA may not treat GHGs as an air pollutant for purposes of determining whether a

[2] 134 S.Ct. 2427 (2014).

source is a major source (or modification thereof) required to obtain a PSD permit. The Court also said that the EPA could continue to require that PSD permits, otherwise required based on emissions of pollutants other than GHGs, contain limitations on GHG emissions based on the application of Best Available Control Technology (BACT).The Supreme Court decision effectively upheld PSD permitting requirements for GHG emissions under Step 1 of the Tailoring Rule for ''anyway sources'' and invalidated PSD permitting requirements for Step 2 sources.

In accordance with the Supreme Court decision, on April 10, 2015, the U.S. Court of Appeals for the District of Columbia Circuit (the D.C. Circuit) issued an amended judgment vacating the regulations that implemented Step 2 of the Tailoring Rule, but not the regulations that implement Step 1 of the Tailoring Rule. A copy of the judgment is included in the docket to this rulemaking.[3] The amended judgment preserves, without the need for additional rulemaking by the EPA, the application of the Best Available Control Technology (BACT) requirement to GHG emissions from sources that are required to obtain a PSD permit based on emissions of pollutants other than GHGs (''anyway'' sources). The D.C. Circuit's judgment vacated the regulations at issue in the litigation, including 40 CFR 51.166(b)(48)(v), ''to the extent they require a stationary source to obtain a PSD permit if greenhouse gases are the only pollutant (i) that the source emits or has the potential to emit above the applicable major source thresholds, or (ii) for which there is a significant emissions increase from a modification.''

The EPA may need to take additional steps to revise federal PSD rules in light of the Supreme Court decision and recent D.C. Circuit judgment. In addition, the EPA anticipates that many states will revise their existing SIP-approved PSD programs. The EPA is not expecting states to have revised their existing PSD program regulations at this juncture. However, the EPA is evaluating PSD program submissions to assure that the state's program correctly addresses GHGs consistent with both decisions.

Arkansas's existing approved SIP contains the greenhouse gas permitting requirements required under 40 CFR 51.166, as amended in the Tailoring Rule. As a result, the State's SIP-approved PSD permitting program continues to require that PSD permits (otherwise required based on emissions of pollutants other than GHGs) contain limitations on GHG emissions based on the application of BACT when sources emit or increase greenhouse gases in the amount of 75,000 tons per year (tpy), measured as carbon dioxide equivalent. Although the SIP-approved Arkansas PSD permitting program may also currently contain provisions that are no longer necessary in light of the D.C. Circuit's judgment or the Supreme Court decision, this does not prevent the EPA from approving the submission addressed in this rule. Arkansas's January 7, 2014 SIP submission does not add any greenhouse gas permitting requirements that are inconsistent with either decision.

Likewise, this revision does add to the Arkansas SIP elements of the EPA's July 12, 2012 rule implementing Step 3 of the phase in of PSD permitting requirements for greenhouse gases described in the Tailoring Rule, which became effective on August 13, 2012. Specifically, the incorporation of the Step 3 rule provisions will allow GHG-emitting sources to obtain PALs for their GHG emissions on a $CO_2e$ basis. The GHG PAL provisions, as currently written, include some provisions that may no longer be appropriate in light of both the D.C. Circuit judgment and the Supreme Court decision. Since the Supreme Court has determined that sources and modifications may not be defined as ''major'' solely on the basis of the level of greenhouse gases emitted or increased, PALs for greenhouse gases may no longer have value in some situations where a source might have triggered PSD based on greenhouse gas emissions alone. However, PALs for GHGs may still have a role to play in determining whether a modification that triggers PSD for a pollutant other than greenhouse gases should also be subject to BACT for greenhouse gases. These provisions, like the other GHG provisions discussed previously, may be revised at some future time. However, these provisions do not add new requirements for sources or modifications that only emit or increase greenhouse gases above the major source threshold or the 75,000 tpy greenhouse gas level in section 52.21(b)(49)(iv). Rather, the PALs provisions provide increased flexibility to sources that wish to address their GHG emissions in a PAL. Since this flexibility may still be valuable to sources in at least one context described above, we believe that it is appropriate to approve these provisions into the Arkansas SIP at this juncture.

In a related matter, on July 12, 2013 the D.C. Circuit, in *Center for Biological Diversity* v. *EPA*,[4] vacated the provisions of the Biomass Deferral, which had delayed (for three years) the applicability of PSD and title V requirements to biogenic $CO_2$ emissions. While the opportunity to seek rehearing of this D.C. Circuit decision remains open and thus the ultimate disposition of the Federal regulations implementing the Biomass Deferral has not yet been determined, the three-year deferral expired on July 21, 2014. Consistent with 40 CFR 51.166(b)(48)(ii)(a), the provision in the approved Arkansas PSD SIP at Regulation 19.904(G)(2)(b) implementing the Biomass Deferral does not apply after the July 21, 2014 date contained therein. Thus, this prior approval does not conflict with the D.C. Circuit's decision.

ADEQ has also adopted and submitted a revision to the SIP-approved provisions at Regulation 19.904(E)(3) to update the reference to the federal air quality models to be used for PSD permitting. The reference now reads 40 CFR 52.21(l)(2) as opposed to the prior incorrect reference to 40 CFR 52.21(2). The EPA proposes to find that the ADEQ has correctly revised the Arkansas PSD program to reference federal requirements.

## III. Proposed Action

The EPA is proposing to approve the January 7, 2014 submitted revisions to the Arkansas PSD Permitting Program at Regulation 19.904(A)(1), (E)(3), and (G)(1) into the Arkansas SIP. The EPA is proposing to determine that the January 7, 2014 revision is approvable because the submitted rules are adopted and submitted in accordance with the CAA and are consistent with the EPA's regulations regarding PSD permitting for emissions of GHGs. Therefore, the EPA proposes to approve the following as a revision to the Arkansas PSD SIP:

- Substantive revisions to Regulation 19.904(A)(1) incorporating by reference the federal GHG PSD PAL permitting provisions,
- Revisions to Regulation 19.904(E)(3) to update the reference to federal PSD air quality models at 40 CFR 52.21(l)(2), and
- Substantive revisions to Regulation 19.904(G)(1) establishing the requirements for GHG PSD PAL permits consistent with federal requirements.

The EPA is also proposing ministerial changes to 40 CFR 52.170(e) and 40 CFR 52.172(b) which reflect that deficiencies

[3] Original case is *Coalition for Responsible Regulation* v. *EPA*, D.C. Cir., No. 09–1322, 06/26/20, judgment entered for No. 09–1322 on 04/10/2015.

[4] 722 F.3d 401 (D.C. Cir. 2013).

identified in our partial disapproval of the December 17, 2007 and March 28, 2008 Arkansas SIP submittals for the 1997 8-hour ozone NAAQS were addressed by our approval of Arkansas PSD program revisions which provide the authority to regulate and permit emissions of GHGs on April 2, 2013 (78 FR 19596). We are also proposing a ministerial change to 40 CFR 52.181(a) to reflect that the EPA approved a revision to the PSD program for the authority to regulate and permit emissions of GHGs on April 2, 2013 (78 FR 19596).

The EPA is proposing these actions under section 110 and part C of the Act, and for the reasons stated above.

### IV. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the revisions to the Arkansas PSD Program at Regulation 19.904 discussed in section II of this preamble. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

### V. 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 proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule is not proposed to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

### List of Subjects in 40 CFR Part 52

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

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

Dated: April 17, 2015.

**Ron Curry,**

*Regional Administrator, Region 6.*

[FR Doc. 2015–09729 Filed 4–24–15; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 69

**[WC Docket No. 05–25; RM–10593; DA 15–382]**

## Comment Deadlines Further Extended in Special Access Proceeding

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; extension of comment and reply comment deadlines.

**SUMMARY:** The Wireline Competition Bureau (Bureau) extends deadlines for the public to file comments and reply comments in response to the Special Access Further Notice of Proposed Rulemaking (*Special Access FNPRM*) until July 1, 2015 and July 22, 2015, respectively.

**DATES:** Comments are due on or before July 1, 2015, and reply comments are due on or before July 22, 2015.

**ADDRESSES:** You may submit comments on the *Special Access FNPRM,* identified by WC Docket No. 05–25, RM–10593, by any of the following methods:

- *Electronic Filers:* Federal Communication Commission's Electronic Comments Filing System (ECFS): *http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *Paper Filers:* All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. Eastern Time (ET). All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.
- *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, or audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

**FOR FURTHER INFORMATION CONTACT:** Christopher Koves, Pricing Policy Division, Wireline Competition Bureau, (202) 418–1540 or *Christopher.Koves@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** This is a summary of the Bureau's public notice, WC Docket No. 05–25, RM–10593, DA 15–382, released March 27, 2015. This document does not contain information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified ''information collection burden[s] for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002. The complete text of this document is available for public inspection and copying from 8:00 a.m. to 4:30 p.m. ET Monday through Thursday or from 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The complete text is also available on the Commission's Web site at *http://wireless.fcc.gov,* or by using the search function on the ECFS Web page at *http://www.fcc.gov/cgb/ecfs/.*

**SUMMARY:** On March 27, 2015, the Commission released a public notice extending the deadlines for filing comments and reply comments in response to Section IV.B of the *Special Access FNPRM* in the Commission's special access rulemaking proceeding until July 1, 2015 and July 22, 2015, respectively. On December 11, 2012, the Commission adopted an order requiring providers and purchasers of special access and certain entities providing ''best efforts'' service to submit data and information for a comprehensive evaluation of the special access market and, in Section IV.B of the accompanying *Special Access FNPRM,* sought comment on changes to its rules for special access services provided by incumbent local exchange carriers in price cap areas. The process for facilitating public access to the data consistent with the protective order released on October 1, 2014 is ongoing but the data is not yet available, and there is insufficient time for the public to access and review this information before filing comment and reply comments. The Bureau therefore extends the deadline for filing comments until July 1, 2015 and reply comments until July 22, 2015.

Federal Communications Commission.

**Pamela Arluk,**

*Acting Chief, Pricing Policy Division, Wireline Competition Bureau.*

[FR Doc. 2015–09772 Filed 4–24–15; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 648

**[Docket No. 150126074–5074–01]**

**RIN 0648–XD742**

## Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; 2015 Atlantic Bluefish Specifications

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

**ACTION:** Proposed specifications; request for comments.

**SUMMARY:** NMFS proposes specifications for the 2015 Atlantic bluefish fishery, including catch restrictions for commercial and recreational fisheries. This action is necessary to establish effective catch constraints for the fishing year consistent with regulatory and statutory requirements. The intent of this action is to establish the allowable 2015 harvest levels and other management measures to achieve the target fishing mortality rate, consistent with the Atlantic Bluefish Fishery Management Plan.

**DATES:** Comments must be received on or before May 12, 2015.

**ADDRESSES:** You may submit comments, identified by NOAA–NMFS–2015–0048, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal e-Rulemaking portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0048,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- Mail: Submit written comments to John Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publically accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Copies of the specifications document, including the Environmental Assessment and Initial Regulatory Flexibility Analysis (EA/IRFA) and other supporting documents for the specifications, are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N. State Street, Dover, DE 19901. The specifications document is also accessible via the Internet at: *http://www.greateratlantic.fisheries.noaa.gov.*

**FOR FURTHER INFORMATION CONTACT:** Reid Lichwell, Fishery Management Specialist, (978) 281–9112.

**SUPPLEMENTARY INFORMATION:**

### Background

The Atlantic bluefish fishery is jointly managed by the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission). The management unit for bluefish specified in the Atlantic Bluefish Fishery Management Plan (FMP) is U.S. waters of the western Atlantic Ocean. Regulations implementing the FMP appear at 50 CFR part 648, subparts A and J. The regulations requiring annual specifications are found at § 648.162.

The annual specifications process requires that the Council's Bluefish Monitoring Committee and its Scientific and Statistical Committee (SSC) review the best available scientific information and make specification recommendations to the Council. These groups have reviewed the 2014 updated bluefish stock assessment, which is summarized in the Environmental Assessment and supporting documents. Based on the recommendations of the Monitoring Committee and SSC, the Council makes its specification recommendations to the NMFS Greater Atlantic Regional Administrator. Because this FMP is a joint plan, the Commission also meets during the annual specification process to adopt complementary measures.

The Council's recommendations must include supporting documentation concerning the environmental, economic, and social impacts of the recommendations. NMFS is responsible for reviewing these recommendations to ensure that they achieve the FMP objectives and are consistent with applicable law. NMFS then conducts rulemaking through the **Federal Register** to propose measures, solicit public comment and publish final measures.

**Proposed Specifications**

*Updated Model Estimates*

Overfishing for bluefish is defined as fishing mortality that exceeds the fishing mortality rate that allows maximum sustainable yield ($F_{MSY}$), or when the maximum F threshold is exceeded. The stock is considered overfished if the biomass (B) falls below the minimum biomass threshold, defined as ½ $B_{MSY}$. Amendment 1 to the FMP established that the long-term target F is 90 percent of $F_{MSY}$ ($F_{MSY}$ = 0.19; therefore $F_{target}$ = 90 percent of $F_{MSY}$, or 0.17), and the long-term target biomass is $B_{MSY}$ = 324 million lb (147,052 mt).

The stock assessment model was updated in July 2014 in order to estimate the current status of the bluefish stock (*i.e.,* 2013 biomass and F estimates). This update was used by the Monitoring Committee and the SSC to recommend 2015 specifications. The results of the assessment update were as follows: (1) An estimated stock biomass for 2013, $B_{2013}$ = 273 million lb (123,716 mt); and (2) an estimated fishing mortality rate for 2013, $F_{2013}$ = 0.118. Based on the updated 2013 estimate of bluefish stock biomass, the bluefish stock is not considered overfished: $B_{2013}$ is less than $B_{MSY}$, but well above the minimum biomass threshold of 162 million lb (73,526 mt). The updated model results also conclude that the Atlantic bluefish stock is not experiencing overfishing; *i.e.,* the most recent F ($F_{2013}$ = 0.118) is less than the maximum F overfishing threshold ($F_{MSY}$ = 0.19). Bluefish was declared rebuilt in 2009.

*Proposed 2015 Catch Limits*

Based upon the results of the assessment update and the Council's risk policy, the SSC recommended an acceptable biological catch (ABC) of 21.544 million lb (9,772 mt) for 2015. The Council recommended no deductions to account for management uncertainty; therefore, ABC=ACL=ACT. The ACT is initially allocated between the recreational fishery (83 percent) and the commercial fishery (17 percent). After deducting an estimate of recreational discards (commercial discards are considered negligible), the recreational harvest limit (RHL) would be 13.073 million lb (5,930 mt) and the commercial quota would be 5.119 million lb (2,322 mt).

The FMP specifies that if 17 percent of the TAL is less than 10.500 million lb (4,763 mt), and the recreational fishery is not projected to land its harvest limit for the upcoming year, the commercial fishery may be allocated up to 10.500 million lb (4,763 mt) as its quota, provided that the combination of the projected recreational landings and the commercial quota does not exceed the TAL. Under such a scenario, the RHL would then be adjusted so that the TAL remains unchanged.

The Council projected an estimated 2015 annual recreational harvest of 13.073 million lb (5,930 mt). As such, it is expected that a transfer of up to 1.460 million lb (662 mt) from the recreational sector to the commercial sector could be approved. This option represents the preferred alternative recommended by the Council. We intend to evaluate final Marine Recreational Information Program data regarding the 2014 recreational harvest as they become available. The 2015 transfer amount may be changed for the final rule depending on our analysis of the final 2014 recreational landings data. If such a change occurs, we will provide additional data and explanation in the final rule.

The Council is not recommending allocating research set-aside quota for 2015; therefore, no additional adjustments to commercial or recreational allocations are needed. The final proposed commercial quota for 2015 is 5.119 million lb (2,322 mt), which would be a 31-percent decrease from 2014 (7.458 million lb, 3,383 mt), and the proposed RHL is 13.073 million lb (5,930 mt), which would be a 3-percent decrease from the 2014 RHL (13.52 million lb, 6,133 mt).

*Proposed Recreational Possession Limit*

NMFS proposes not to change the current recreational possession limit, consistent with the recommendation by the Council. This would maintain a daily recreational possession limit of up to 15 fish per person for 2015.

*Proposed State Commercial Allocations*

The proposed state commercial allocations for the recommended 2015 commercial quota are shown in Table 1, based on the percentages specified in the FMP. There were no states that exceeded their quota in 2014; therefore, no accountability measures are expected to be implemented for the 2015 fishing year.

TABLE 1—PROPOSED BLUEFISH COMMERCIAL STATE-BY-STATE ALLOCATIONS FOR 2015

| State | Percent share | 2015 Proposed commercial quota (lb) | 2015 Proposed commercial quota (kg) |
|---|---|---|---|
| ME | 0.6685 | 34,221 | 15,522 |
| NH | 0.4145 | 21,218 | 9,624 |
| MA | 6.7167 | 343,828 | 155,958 |
| RI | 6.8081 | 348,507 | 158,080 |
| CT | 1.2663 | 64,822 | 29,402 |
| NY | 10.3851 | 531,613 | 241,136 |
| NJ | 14.8162 | 758,441 | 344,023 |
| DE | 1.8782 | 96,145 | 43,611 |
| MD | 3.0018 | 153,662 | 69,700 |
| VA | 11.8795 | 608,112 | 275,835 |
| NC | 32.0608 | 1,641,192 | 744,432 |
| SC | 0.0352 | 1,802 | 817 |
| GA | 0.0095 | 486 | 220 |
| FL | 10.0597 | 514,956 | 233,580 |
| Total | 100.0001 | 5,119,134 | 2,322,000 |

**Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Atlantic Bluefish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

These proposed specifications are exempt from review under Executive Order 12866.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA), which describes the economic impact this proposed rule, if adopted, would have on small entities. The IRFA is summarized here.

*Description of the Reasons Why Action by the Agency Is Being Considered*

A description of the action and why it is being considered are contained at the beginning of this preamble and in the SUMMARY.

*Statement of the Objective of, and Legal Basis for, This Proposed Rule*

The statement of the objective and the legal basis for this action are contained at the beginning of this preamble and in the SUMMARY.

*Description and Estimate of the Number of Small Entities to Which This Proposed Rule Would Apply*

The Small Business Administration (SBA) defines a small business in the commercial harvesting sector as a firm with receipts (gross revenues) of up to $5.5 million for shellfish and $20.5 million for finfish businesses. A small business in the recreational fishery is a firm with receipts of up to $7.5 million.

According to the 2011–2013 Northeast affiliate ownership database, 1,009 fishing businesses or affiliated firms (vessels grouped together by a common owner) landed bluefish during the 2011–2013 period, with 1,001 of those businesses categorized as small business and 8 categorized as large business. However, the affiliate database used to identify small/large business firms that have recently participated in the bluefish fishery does not contain detailed ownership data for business entities in the South Atlantic Region. As such, the South Atlantic Trip Ticket reports were used to identify vessels participating in the bluefish fishery within the region. The South Atlantic Trip Ticket reports identified 790 vessels that landed bluefish in North Carolina and 1,338 vessels that landed bluefish on Florida's east coast in 2013.[1] Bluefish landings in South Carolina and Georgia were near zero in 2013, representing a negligible proportion of the total bluefish landings along the Atlantic Coast. Therefore, this analysis assumed that no vessel activity for these two states took place in 2013. In recent years, approximately 2,000 party/charter vessels have been active in the bluefish fishery and/or have caught bluefish.

*Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of This Proposed Rule*

There is no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action.

*Federal Rule Which May Duplicate, Overlap, or Conflict With This Proposed Rule*

NMFS is not aware of any relevant Federal rules that may duplicate, overlap, or conflict with this proposed rule.

*Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statues and Which Minimize Any Significant Economic Impact on Small Entities*

The small entities that could be affected by this action include any business entity holding an active Federal permit for Atlantic bluefish, as well as owners of vessels that fish for Atlantic bluefish in state waters. There were 1,009 Northeast fishing businesses that landed bluefish from 2011–2013, 1,001 are considered small business entities; there would be no disproportionate impacts between large and small entities as a result of the proposed rule. There are 765 vessels in North Carolina that landed bluefish quota from 2011–2013; on average those vessels generated 10.8% of their ex-vessel revenue from bluefish landings. There are 1,227 vessels in on the east coast of Florida that landed bluefish quota from 2011–2013; on average those vessels generated 0.83% of their ex-vessel revenue from bluefish landings.

The IRFA in the Draft EA for this action addressed two alternatives (including a no action/status quo alternative) for the 2015 Atlantic bluefish fishing year. Both quota alternatives considered in this analysis are based on various commercial harvest levels for bluefish. For analysis of impacts of the No Action Alternative, the current commercial quota of 7.458 million lb (3,383 mt) and RHL of 13.523 million lb (6,134 mt) for 2014 would be maintained. For analysis of impacts of the Preferred Action Alternative, the transfer of 1.457 million lb (661 mt) from the recreational sector to the commercial sector was used. The calculated TAL, commercial quota and the RHL for the Preferred Alternative (Council's preferred) and the No Action Alternative are shown in Table 2.

TABLE 2—PROPOSED 2015 ATLANTIC BLUEFISH SPECIFICATION ALTERNATIVES FOR TAL, COMMERCIAL QUOTA, AND RHL

| Year | Alternatives | TAL | | Commercial quota | | RHL | |
|---|---|---|---|---|---|---|---|
| | | million lb | mt | million lb | mt | million lb | mt |
| 2015 | Preferred Action | 18.192 | 8,252 | 5.119 | 2,322 | 13.073 | 5,930 |
| 2015 | No Action | 21.081 | 9,888 | 7.458 | 3,383 | 13.523 | 6,134 |

**Commercial Fishery Impacts**

To assess the impact of the alternatives on commercial fisheries, the Council conducted a threshold analysis and analysis of potential changes in ex-vessel gross revenue that would result from each alternative, using Northeast dealer reports and South Atlantic Trip Ticket reports.

Under the No Action Alternative, the 2015 specifications would have no aggregate change in allowable

[1] Some of these vessels were also identified in the Northeast dealer data; therefore, double counting is possible.

commercial landings or RHL relative to the 2014 limits. As such, it is expected that no change in revenues or fishing opportunities would occur. The No Action Alternative would likely result in quota constraints for vessels in New York and Massachusetts; however, these quota constraints would not have an economic impact due to the ability to transfer quota from state to state.

Under the Preferred Alternative, 57 business entities were projected to incur revenue losses of 5 percent or more, 944 entities were projected to incur losses of less than 5 percent in 2015. Under Alternative 2 (non-preferred), 87 business entities were projected to incur revenue losses of 5 percent or more, 914 entities were projected to incur losses of less than 5 percent in 2015. For both alternatives, the majority of vessels with greater than 5 percent of revenue losses had total gross sales of $10,000 or less (average for all possible species combined not just bluefish in 2011–2013), which may indicate that the dependence on fishing for some of these vessels is small.

The South Atlantic Trip Ticket Report data indicated that 765 vessels landed commercial bluefish quota in North Carolina from 2011–2013. On average, these vessels generated 10.8% of their total ex-vessel revenue from bluefish landings. The commercial landings are projected to decrease as a consequence of the 2015 allocation when compared to the 2014 allocation by approximately 31.4% under the Preferred Alternative and 50.9% under Alternative 2. On average, reduction in revenues due to the potential decrease in landings associated with the 2015 quota compared to the 2014 quota are expected to be approximately 3.4% for the Preferred Alternative and 5.5% for Alternative 2, for fishermen that land bluefish in North Carolina.

In Florida, 1,227 vessels landed bluefish from 2011–2013, and 0.83% of their total ex-vessel revenue was generated from bluefish landings. On average, reduction in revenues due to the potential decrease in landings associated with the 2015 quota compared to the 2014 quota are expected to be approximately 0.3% for the Preferred Alternative and 0.4% for Alternative 2, for fishermen that land bluefish in Florida.

If commercial quota is transferred from a state or states that do not land their entire bluefish quota for 2015, as was done in frequently in previous years, the number of affected entities could change. Transfers could lessen the adverse economic impact on vessels landing in the state(s) receiving quota transfers for both alternatives. Such transfers cannot be predicted or projected, as each occurs on a case by case agreement between states.

**Recreational Fishery Impacts**

It is very difficult to calculate the economic value of recreational fisheries. However, the Preferred Action Alternative RHL (13.073 million lb, 5,930 mt) is approximately 15 percent below the recreational landings for 2013 (15.388 million lb, 6,980 mt). Under the No Action Alternative, the recommended RHL for the recreational sector (13.523 million lb, 6,134 mt) is approximately 13 percent below the recreational landings for 2013 (15.388 million lb, 6,980 mt), and the RHL for Alternative 2 (14.530 million lb, 6, 591 mt) is approximately 5.5 percent below the recreational landings for 2013.

While the proposed recreational harvest limit under the Preferred Alternative for 2015 is lower than the limit implemented in 2014 (13.523 million lb) and 2013 recreational landings (15.388 million lb), the projected landings for 2015 are expected to be similar to the proposed limit under this alternative. Therefore, it is anticipated that the proposed RHL will not limit recreational catch or negatively impact recreational fishing revenue. It is not anticipated that this management measure will have any negative effects on recreational fishermen or affect the demand for party/charter boat trips. This alternative is not expected to significantly affect angler satisfaction nor expected to result in landings in excess of the recreational harvest limit. Overall, it is not expected that the final recreational management measures will significantly affect gross revenues of businesses providing goods and services to anglers participating in the party/charter boat, private/rental boat, and shore fisheries for bluefish.

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

Dated: April 17, 2015.

**Eileen Sobeck,**

*Assistant Administrator for Fisheries, National Marine Fisheries Service.*

[FR Doc. 2015–09684 Filed 4–24–15; 8:45 am]

**BILLING CODE 3510–22–P**

# Notices

Federal Register
Vol. 80, No. 80
Monday, April 27, 2015

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

### Natural Resources Conservation Service

**[Docket No. NRCS–2015–0004]**

### Notice of Availability of Draft Programmatic Environmental Assessment for the Voluntary Public Access and Habitat Incentive Program

**AGENCY:** Natural Resources Conservation Service.

**ACTION:** Notice of availability of draft environmental assessment for the Voluntary Public Access and Habitat Incentive Program.

**SUMMARY:** Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), the Natural Resources Conservation Service (NRCS) has prepared a draft programmatic environmental assessment (EA) for the Voluntary Public Access and Habitat Incentive Program (VPA–HIP). The purpose of the draft programmatic EA is to briefly review the effects of activities that are likely to occur when NRCS awards future VPA–HIP grant funds so NRCS can decide whether VPA–HIP is likely to result in significant adverse impacts requiring preparation of an Environmental Impact Statement (EIS). NRCS is soliciting comments on the draft programmatic EA from interested parties for 30 days from the date of this notice. Comments may be sent by mail or email to the contact listed below.

**DATES:** Submit comments on or before May 27, 2015.

**ADDRESSES:** Send public comments to Andrée DuVarney, National Environmental Coordinator, NRCS, Post Office Box 2890, Washington, DC 20013–2890; email: *andree.duvarney@wdc.usda.gov.*

**FOR FURTHER INFORMATION CONTACT:** A copy of the draft programmatic EA can be accessed on the Internet by clicking the appropriate link at *www.nrcs.usda.gov/ea.* Single copies of the draft programmatic EA or additional information may be obtained by contacting Andrée DuVarney, National Environmental Coordinator, NRCS, Post Office Box 2890, Washington, DC 20013–2890; email: *andree.duvarney@wdc.usda.gov.*

**SUPPLEMENTARY INFORMATION:** VPA–HIP is a competitive grants program available to State and Tribal governments. The program is authorized under the Food Security Act of 1985, and governed by regulations at 7 CFR part 1455. The primary objective of VPA–HIP is to support State and Tribal government programs that encourage owners and operators of privately held farm, ranch, and forest land to voluntarily make that land accessible to the public for hunting, fishing, and other wildlife-dependent recreation. Grant recipients may also use VPA–HIP funds to improve habitat on enrolled public-access-program lands.

NRCS expects most habitat improvement actions carried out with VPA–HIP funds to follow NRCS conservation practice standards and fall within existing categorical exclusions. Although VPA–HIP applicants that agree to follow NRCS conservation practice standards will receive preference for acceptance and funding, there is no requirement to do so. Therefore, NRCS has decided to prepare a programmatic EA to review the effects of activities that are likely to occur with VPA–HIP grants.

*Proposed Action:* The proposed action is to award grants in accordance with 7 CFR part 1455. Under this alternative, NRCS will provide an opportunity for State and Tribal governments to apply for grants to encourage owners and operators of privately held farm, ranch, and forest land to voluntarily make that land accessible to the public for hunting, fishing, and other wildlife-dependent recreation, and to improve and manage fish and wildlife habitat on their land under programs administered by State or Tribal governments. Grants will be awarded through a competitive process.

*Alternatives:* The draft programmatic EA evaluates the environmental impacts of the proposed action and the no-action alternative. The proposed action is the agency's preferred alternative because it meets the purpose of and need for the project with only minor, short-term adverse impacts to the environment anticipated. The no-action alternative does not meet the purpose and need for the action, and results in more adverse impacts to the environment than the preferred alternative.

*Scoping:* In developing the draft programmatic EA, NRCS conducted internal scoping with various agency discipline experts, and used experience gained from previous VPA–HIP grants and associated EAs. Potential adverse impacts identified through the scoping process may include localized, temporary, and minor increases in soil erosion, sediment transport, and particulate matter from ground disturbing activities and the use of agricultural equipment during the installation of conservation practices. In the longer term, there will be habitat improvements, and increased recreational and economic benefits.

No public scoping meetings are planned. Comments received from Federal, State or local agencies, Native American Tribes, nongovernmental organizations, and interested citizens within 60 days of the date of this notice will be used to assist in the development of the final EA, and help NRCS determine whether to prepare a Finding of No Significant Impact or an EIS. Comments may be submitted to Ms. Andrée DuVarney, National Environmental Coordinator, NRCS, Post Office Box 2890, Washington, DC 20013–2890; email: *andree.duvarney@wdc.usda.gov.*

*Public Involvement:* NRCS invites full public participation to promote open communication and better decision-making. All persons and organizations with an interest in the environmental effects of VPA–HIP grants are urged to comment on the draft programmatic EA. Copies of the comments received will be included in the administrative record without change, and may include any personal information provided unless the commenter indicates that the comment includes information claimed to be confidential business information.

*Other Environmental Review and Coordination Requirements:* VPA–HIP grant recipients will conduct site-specific evaluations of lands where habitat improvement projects are planned to address project compliance with applicable laws and regulations, including NEPA, the Clean Water Act,

the Endangered Species Act, and the National Historic Preservation Act. NRCS will conduct or oversee any required consultation with VPA–HIP grant recipients in accordance with applicable regulations.

Signed this 14th day of April 2015, in Washington, DC.

**Jason A. Weller,**

*Chief, Natural Resources Conservation Service.*

[FR Doc. 2015–09639 Filed 4–24–15; 8:45 am]

**BILLING CODE 3410–16–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–570–921; C–570–931; C–570–936; C–570–938; C–570–940; C–570–942; C–570–944; C–570–946; C–570–955; C–570–957; C–570–959; C–570–966; C–570–968; C–570–978; C–570–980]**

### Notice of Commencement of Compliance Proceedings Pursuant to Section 129 of the Uruguay Round Agreements Act

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**DATES:** *Effective date:* April 27, 2015.

**SUMMARY:** Pursuant to Section 129 of the Uruguay Round Agreements Act (URAA), 19 U.S.C. 3538, the Department of Commerce (Department), is commencing 15 separate proceedings to gather information, analyze record evidence, and consider the determinations which would be necessary to bring its measures into conformity with the recommendations and rulings of the Dispute Settlement Body (DSB) of the World Trade Organization (WTO) in *United States—Countervailing Duty Measures on Certain Products from China* (*WTO/DS437*). This dispute concerns the final determinations/amended final determinations issued in countervailing duty (CVD) investigations of various merchandise from the People's Republic of China.

**FOR FURTHER INFORMATION CONTACT:** Eric B. Greynolds, Program Manager, AD/CVD Operations Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; Telephone: (202) 482–6071.

**SUPPLEMENTARY INFORMATION:**

### Background

On February 13, 2015, the United States informed the DSB that the United States intends to implement the DSB's recommendations and rulings in *WTO/DS437.* The CVD investigations at issue are as follows:

| Case No. | Full title | FR Cite/Publication date |
|---|---|---|
| C–570–921 | Lightweight Thermal Paper From the People's Republic of China: Final Affirmative Countervailing Duty Determination. | 73 FR 57323 (October 2, 2008) |
| C–570–931 | Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination. | 74 FR 4936 (January 28, 2009) |
| C–570–936 | Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination [1]. | 73 FR 70961 (November 24, 2008) |
| C–570–938 | Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Affirmative Countervailing Duty Determination. | 69 FR 16836 (April 13, 2009) |
| C–570–940 | Certain Tow-Behind Lawn Groomers and Certain Parts Thereof From the People's Republic of China: Final Affirmative Countervailing Duty Determination. | 74 FR 29180 (June 19, 2009) |
| C–570–942 | Certain Kitchen Shelving and Racks from the People's Republic of China: Final Affirmative Countervailing Duty Determination. | 74 FR 37012 (July 27, 2009) |
| C–570–944 | Certain Oil Country Tubular Goods From the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Negative Critical Circumstances Determination [2]. | 74 FR 64045 (December 7, 2009) |
| C–570–946 | Pre–Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination [3]. | 75 FR 28557 (May 21, 2010) |
| C–570–955 | Certain Magnesia Carbon Bricks from the People's Republic of China: Countervailing Duty Order. | 75 FR 57442 (September 21, 2010) |
| C–570–957 | Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination [4]. | 75 FR 57444 (September 21, 2010) |
| C–570–959 | Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Final Affirmative Countervailing Duty Determination [5]. | 75 FR 59212 (September 27, 2010) |
| C–570–966 | Drill Pipe From the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination. | 76 FR 1971 (January 11, 2010) |
| C–570–968 | Aluminum Extrusions From the People's Republic of China: Final Affirmative Countervailing Duty Determination. | 76 FR 18521 (April 4, 2011) |
| C–570–978 | High Pressure Steel Cylinders From the People's Republic of China: Final Affirmative Countervailing Duty Determination. | 77 FR 26738 (May 7, 2012) |

[1] Amended, *see Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order,* 74 FR 4136 (January 23, 2009).

[2] Amended, *see Certain Oil Country Tubular Goods from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 75 FR 3203 (January 20, 2010).

[3] Amended, *see Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order,* 75 FR 38977 (July 7, 2010).

[4] Amended, *see Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 75 FR 69050 (November 10, 2010).

[5] Amended, *see Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 75 FR 70201 (November 17, 2010).

| Case No. | Full title | FR Cite/Publication date |
|---|---|---|
| C–570–980 ..... | Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination. | 77 FR 63788 (October 17, 2012) |

**Commencement of Section 129 Proceedings**

In accordance with Section 129(b)(1) of the URAA, the Department consulted with the Office of the United States Trade Representative, and on April 17, 2015, pursuant to those consultations, opened segments in the 15 CVD investigations at issue to commence administrative actions to comply with the DSB's recommendations and rulings. Each segment will consist of a separate administrative record with its own administrative protective order. In accordance with 19 CFR 351.305(b), interested parties may request access to business proprietary information in the segment of the proceeding to which they are participating. For each of these section 129 segments, we may request additional information and we may conduct verification of such information. Consistent with Section 129(d) of the URAA, the Department will make a preliminary determination in each of the Section 129 segments, the Department will provide interested parties with an opportunity to provide written comments on those preliminary determinations, and the Department may hold a hearing.

**Filing Requirements & Letter of Appearance**

In accordance with the Department's regulations, all submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). An electronically-filed document must be received successfully in its entirety by the time and date it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.[6]

Pursuant to 19 CFR 351.103(d)(l), to be included on the public service list for the Section 129 determination for the aforementioned proceedings, all interested parties, including parties that were part of the public service list in the underlying investigation(s) and any parties otherwise notified of the Department's commencement of these Section 129 proceedings, must file a letter of appearance. The letter of appearance must be filed separately from any other document (with the exception of an application for administrative protective order (APO) access; parties applying for and granted APO access would automatically be on the public service list). Parties wishing to enter an appearance or submit information with regard to these proceedings must upload their filing(s) to each relevant case number. Additionally, for each submission made in ACCESS, parties must select ''S 129–SEC 129'' as the segment and enter ''DS437'' in the segment specific information field.

**Submission of Factual Information**

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The regulation requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Parties should review the regulations prior to submitting factual information in these segments.

**Extension of Time Limits Regulation**

Parties may request an extension of time limits before the expiration of a time limit established under Part 351, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under Part 351 expires. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. *Review Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm* prior to submitting factual information in these segments.

**Certification Requirements**

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[7] Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule.*[8] The Department intends to reject factual submissions if the submitting party does not comply with the applicable revised certification requirements.

**Notification to Interested Parties**

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department

[6] *See generally* 19 CFR 351.303 (for general filing requirements).

[7] *See* section 782(b) of the Act.

[8] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (Final Rule); *see also* frequently asked questions regarding the Final Rule, available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is published in accordance with Section 129(b)(1) of the URAA.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2015–09736 Filed 4–24–15; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

### United States Travel and Tourism Advisory Board: Meeting of the United States Travel and Tourism Advisory Board

**AGENCY:** International Trade Administration, U.S. Department of Commerce.

**ACTION:** Notice of an open meeting by teleconference.

**SUMMARY:** The United States Travel and Tourism Advisory Board (Board) will hold an open meeting by teleconference on Thursday, May 14, 2015. The Board was re-chartered on August 19, 2013, to advise the Secretary of Commerce on matters relating to the travel and tourism industry.

During this teleconference, the Board will deliberate on a draft letter to the Secretary outlining the Board's priority recommendations. Board members will also hear an update from the working group formed to help advise on the achievement of the national goal of improving the entry process for international travelers to the United States. The agenda may change to accommodate Board business. The final agenda will be posted on the Department of Commerce Web site for the Board at *http://trade.gov/ttab,* at least one week in advance of the call.

**DATES:** Thursday, May 14, 2015, 12:00 p.m.–1:30 p.m. and open for public comments.

**ADDRESSES:** Via teleconference. Guests are requested to register one week in advance by sending an email to *Niara.Phillips@trade.gov.*

**FOR FURTHER INFORMATION CONTACT:** Niara Phillips, the United States Travel and Tourism Advisory Board, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: 202–482–4501, email: *niara.phillips@trade.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background:* The Board advises the Secretary of Commerce on matters relating to the U.S. travel and tourism industry.

*Public Participation:* The call will be open to the public. All guests are required to register in advance, and will receive a copy of the draft letter upon registering. There will be 15 minutes of time allotted for oral comments from members of the public joining the call. Any member of the public may submit pertinent written comments concerning the Board's affairs at any time before or after the call. Comments may be submitted to Niara Phillips at the contact information indicated above. To be considered during the call, comments must be received no later than 5:00 p.m. EDT on May 7, 2015, to ensure transmission to the Board prior to the call. Comments received after that date and time will be distributed to the members but may not be considered on the call. A recording will be available within 30 days of the call.

Dated: April 22, 2015.

**Niara Phillips,**

*Executive Secretary, United States Travel and Tourism Advisory Board.*

[FR Doc. 2015–09731 Filed 4–24–15; 8:45 am]

**BILLING CODE 3510–DR–P**

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

**[Docket Number: 150406348–5348–01]**

### Notice of Public Workshop and Request for Public Comments on the Draft Community Resilience Planning Guide for Buildings and Infrastructure Systems

**AGENCY:** National Institute of Standards and Technology, U.S. Department of Commerce.

**ACTION:** Notice of public workshop; request for public comments.

**SUMMARY:** On Monday, April 27, 2015, the National Institute of Standards and Technology (NIST) will release the Draft Community Resilience Planning Guide (CRPG) for Buildings and Infrastructure Systems, consisting of two volumes totaling approximately 350 pages, and requests public comments on the draft document. On the same day, NIST will hold a public workshop at Texas Southern University in Houston, TX to present and discuss the Draft CRPG. The agenda will consist of an overview of the NIST Community Resilience Program and an introduction to volumes one (1) and two (2) of the Draft CRPG. A panel of regional and local government representatives will provide insight into their experience with community resilience and how they plan to implement the CRPG in their community. This will be followed by a moderated discussion with participants regarding the opportunities and challenges of implementing the methodology. The Draft CRPG and a suggested comment template will be posted on the NIST Web site at: *http://www.nist.gov/el/building_materials/resilience/framework.cfm.* NIST will consider all comments received from the public submitted in accordance with the DATES and **ADDRESSES** sections below.

**DATES:** NIST will release the Draft Community Resilience Planning Guide (CRPG) for Buildings and Infrastructure Systems on Monday, April 27, 2015, and will hold the 5th Disaster Resilience Workshop on Monday, April 27, 2015, between from 8:30 a.m. and 4 p.m. Central Time at Texas Southern University. Limited onsite registration is available, please contact Steve Cauffman. The public comment period opens on Monday, April 27, 2015, and comments must be received by 11:59 p.m. Eastern Time on Friday, June 26, 2015.

**ADDRESSES:** Written comments may be submitted by email to *resilience@nist.gov,* by fax to 301–990–6891, or by mail to: NIST Community Resilience Program, Attention: Mr. Stephen Cauffman, National Institute of Standards and Technology, 100 Bureau Drive Stop 8615, Gaithersburg, MD 20899–8615. All comments will be made publicly available at *http://www.nist.gov/el/building_materials/resilience/framework.cfm.* Accordingly, personal, proprietary or confidential information should not be included.

The 5th NIST Community Resilience Workshop will be held at Texas Southern University, 3100 Cleburne Street, Houston, TX 77004. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice. Additional information on the workshop, including the online registration link, is posted at: *http://www.nist.gov/el/building_materials/resilience/5th-disaster-resilience-workshop.cfm.*

**FOR FURTHER INFORMATION CONTACT:** Questions regarding either the workshop or request for public comments should be addressed to Mr.

Steve Cauffman by email at *stephen.cauffman@nist.gov* or by telephone at 301–975–6051. Please direct media inquiries to NIST's Office of Public Affairs at (301) 975–2762.

**SUPPLEMENTARY INFORMATION:** NIST will release the Draft Community Resilience Planning Guide (CRPG) for Buildings and Infrastructure Systems for public comment on Monday, April 27, 2015, and it will be posted at *http://www.nist.gov/el/building_materials/resilience/framework.cfm.* The CRPG is being issued in a draft form with a 60-day public comment period. Public comments will be accepted until 11:59 p.m. Eastern Time on Friday, June 26, 2015.

NIST established a program in Community Resilience to conduct research and develop guidance that improves the way communities prepare for, withstand, and recover from disruptive events, such as natural hazards. The Draft CRPG has benefitted from the input of private and public sector stakeholders and experts, with a wide range of expertise in areas including but not limited to community planning, disaster recovery, emergency management, business continuity, insurance/re-insurance, state and local government, design, construction, and maintenance of infrastructure (buildings, water and wastewater, electric power, communications, transportation), and standards and code development. The Framework is intended to provide local governments with a methodology for including resilience in their long term community development planning process and to provide a means to facilitate engagement with external stakeholders that have a role in ensuring community resilience.

*Public Workshop:* The 5th NIST Community Resilience Workshop will be held on Monday April 27th at Texas Southern University, 3100 Cleburne Street, Houston, TX 77004 from 8:30 a.m. until 4:00 p.m. Central Time. The workshop will provide an overview of the Draft CRPG, describe its application, and present a panel of emergency planners and other local and regional representatives who will discuss the potential utility of the new tool for their communities and respond to questions from attendees. NIST encourages the attendance of anyone with an interest in improving the resilience of U.S. communities, including those with knowledge or expertise in community planning, disaster recovery, emergency management, business continuity, insurance/re-insurance, state and local government, design, construction, and maintenance of infrastructure (buildings, water and wastewater, electric power, communications, transportation), and standards and code development. Limited onsite registration is available, please contact Steve Cauffman by email at *stephen.cauffman@nist.gov* or by telephone at 301–975–6051. Additional information on the workshop, including the online registration link, is posted at: *http://www.nist.gov/el/building_materials/resilience/5th-disaster-resilience-workshop.cfm.*

*Request for Public Comment:* Persons interested in commenting on the Draft CRPG can submit their written comments using the suggested template posted on the NIST Web site at: *http://www.nist.gov/el/building_materials/resilience/framework.cfm* or in other formats. All comments received in response to this notice will become part of the public record and will be posted on the NIST Web site at: *http://www.nist.gov/el/building_materials/resilience/framework.cfm.*

Comments containing references, studies, research, and other empirical data that are not widely published should include copies of the referenced materials. All comments will be made publicly available; therefore personal, proprietary or confidential information should not be included. All comments must be received by NIST by 11:59 p.m. Eastern Time on Friday, June 26, 2015 in accordance with the **DATES** and **ADDRESSES** sections of the notice above. Comments received after this time will not be considered.

**Kevin Kimball,**

*Chief of Staff.*

[FR Doc. 2015–09767 Filed 4–23–15; 11:15 am]

BILLING CODE 3510–13–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 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:* NOAA Customer Surveys.

*OMB Control Number:* 0648-0342.

*Form Number(s):* None.

*Type of Request:* Regular (extension of a currently approved information collection).

*Number of Respondents:* 183,000.

*Average Hours per Response:* 10 minutes.

*Burden Hours:* 17,000.

*Needs and Uses:* This request is for extension of a currently approved generic information collection.

This collection follows the guidelines contained in the OMB Resource Manual for Customer Surveys. In accordance with Executive Order 12862, the National Performance Review, and good management practices, NOAA offices seek approval to continue to gather customer feedback on services and/or products, which can be used in planning for service/product modification and prioritization. Under this generic clearance, individual offices would use approved questionnaires and develop new questionnaires, as needed, by selecting subsets of the approved set of collection questions and tailoring those specific questions to be meaningful for their particular programs. These proposed questionnaires would then be submitted to OMB using a fast-track request for approval process, for which separate **Federal Register** notices are not required. Surveys currently being conducted include Web site satisfaction surveys, a Chart Users survey, and a Coastal Services Center Training Evaluation.

The generic clearance will not be used to survey any bodies NOAA regulates unless precautions are taken to ensure that the respondents believe that they are not under any risk for not responding or for the contents of their responses; *e.g.,* in no survey to such a population will the names and addresses of respondents be required.

*Affected Public:* Individuals or households; not-for-profit institutions; state, local or tribal government; business or other for-profit organizations.

*Frequency:* One time.

*Respondent's Obligation:* Voluntary.

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: April 22, 2015.

**Sarah Brabson,**

*NOAA PRA Clearance Officer.*

[FR Doc. 2015–09713 Filed 4–24–15; 8:45 am]

**BILLING CODE 3510–12–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XZ51**

### Marine Mammals; File No. 15543

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

**ACTION:** Notice; issuance of permit amendment.

**SUMMARY:** Notice is hereby given that a major amendment to Permit No. 15543–03 has been issued to Randall S. Wells, Ph.D. (Principal Investigator), Sarasota Dolphin Research Program, c/o Mote Marine Laboratory, 1600 Ken Thompson Parkway, Sarasota, FL 34236.

**ADDRESSES:** The permit amendment and related documents are available for review upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

**FOR FURTHER INFORMATION CONTACT:** Courtney Smith or Brendan Hurley, (301) 427–8401.

**SUPPLEMENTARY INFORMATION:** On January 9, 2015, notice was published in the **Federal Register** (80 FR 1398) that a request for an amendment Permit No. 15543–03 to conduct research on bottlenose (*Tursiops truncatus*) and Atlantic spotted (*Stenella frontalis*) dolphins for scientific research had been submitted by the above-named applicant. The requested permit amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The amended permit expands the study area to include the bay, sound, estuary and associated coastal waters of Mobile Bay, AL, and Terrebonne Bay, LA, and added annual takes in each location by remote biopsy sampling of bottlenose dolphins. Annual biopsy takes were also added to the currently authorized allotment of Florida biopsy activities to include a focused study in Pensacola Bay, FL. The amendment also authorizes the capture, satellite-tagging, and release of Atlantic spotted dolphins for health assessments by hoop-netting bow-riding individuals during surveys on the West Florida Shelf. Up to two takes by unintentional mortality are authorized annually. Finally, the amended permit authorizes a minor procedural modification to allow the administration of doubly-labeled water (deuterium oxide and oxygen-18) to bottlenose dolphins that are temporarily captured during currently permitted health assessments.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: April 10, 2015.

**Julia Harrison,**

*Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2015–09723 Filed 4–24–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XD913**

### New England Fishery Management Council; Public Meeting

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

**ACTION:** Notice; public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** This meeting will be held on Thursday, May 14, 2015, at 9 a.m.

**ADDRESSES:**

*Meeting address:* The meeting will be held at the Courtyard by Marriott, 55 Jefferson Park Road, Warwick, RI, 02888; telephone: (401) 467–6900; fax: (401) 467–2666.

*Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

**SUPPLEMENTARY INFORMATION:** The Advisory Panel (AP) will meet to discuss several issues. First, the AP will review progress and make recommendations related to Amendment 19 alternatives. Amendment 19 is considering measures to address timing issues that inhibit implementation of fishery specifications at the start of the scallop fishing year (March 1). The Advisory Panel will also discuss an issue that has been raised at previous meetings related to scallop fishing space in near shore areas and issues of differential catch rates for general category and limited access vessels. The Council may have a workshop later in the year to discuss these issues further. The AP will also review a draft action plan for Framework 27 that will consider fishery specifications for 2016 and default measures for 2017. Finally, the Advisory Panel will discuss final research priority recommendations for the 2016 Scallop Research Set-Aside announcement. All recommendations will be forwarded to the Scallop Committee meeting that is scheduled several weeks later.

#### Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: April 22, 2015.

**Tracey L. Thompson,**

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

[FR Doc. 2015–09669 Filed 4–24–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XD883**

### Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

**ACTION:** Notice; request for comments.

**SUMMARY:** The Assistant Regional Administrator for Sustainable Fisheries,

Greater Atlantic Region, NMFS, has made a preliminary determination that two Exempted Fishing Permit applications contain all of the required information and warrant further consideration. These Exempted Fishing Permits would allow commercial fishing vessels to fish outside of the limited access scallop regulations in support of research conducted by the Coonamessett Farm Foundation. The Exempted Fishing Permits would exempt participating vessels from the crew size restriction; and possession limits and minimum size requirements for sampling purposes only. These exemptions are in support of research conducted on trips to test gear modifications for bycatch reduction in the scallop dredge fishery.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed Exempted Fishing Permits.

**DATES:** Comments must be received on or before May 12, 2015.

**ADDRESSES:** You may submit written comments by any of the following methods:

- *Email: nmfs.gar.efp@noaa.gov.* Include in the subject line ''CFF Research Sampling EFP.''
- *Mail:* John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on CFF Research Sampling EFP.''
- *Fax:* (978) 281–9135.

**FOR FURTHER INFORMATION CONTACT:** Shannah Jaburek, Fisheries Management Specialist, 978–282–8456.

**SUPPLEMENTARY INFORMATION:** Five proposals submitted by the Coonamesset Farm Foundation (CFF) have been favorably reviewed and are pending final approval by NOAA's Grants Management Division under the 2015 Atlantic Sea Scallop Research Set-Aside (RSA) Program, including one in support of a project titled, ''Determining the Impacts of Dredge Bag Modifications on Flatfish Bycatch in the LAGC Scallop Fishery.'' All grants would include RSA Compensation fishing trips to harvest the set-aside award in order to procure the necessary funds for completing the research.

CFF submitted two complete applications for EFPs on March 24, 2015, and March 25, 2015, to enable data collection activities during research and compensation fishing trips associated with the five Scallop RSA projects, which include allowing seven commercial fishing vessels to exceed the crew size regulations at 50 CFR 648.51(c) in order to place a researcher on the vessel, and temporarily exempt the participating vessels from possession limits and minimum size requirements specified in 50 CFR part 648, subsections B and D through O, for sampling purposes only. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited, including landing fish in excess of a possession limit or below the minimum size.

Experimental fishing activity conducted on both the research project and the compensation fishing trips would test gear modifications that adhere to current scallop gear regulations in an attempt to reduce finfish bycatch in the dredge fishery. Gear modifications that would be tested include the use of alternative materials for shoes, the use of lights or cameras mounted to the dredge frame, and replacing the skirt with two rows of 12-inch (30.48-cm) square mesh. It would also include modifying the twine top by placing rows of 12-inch (30.48-cm) square mesh forward of, but not overlapping the remainder rows of 10-inch (25.40-cm) diamond mesh. All trips would take place in scallop fishing areas open to the entire Atlantic sea scallop fishery.

Exemption from crew size limits is needed because a research technician would accompany vessels on some of the compensation fishing trips to collect catch data associated with different dredge modifications. The crew size exemption would be for approximately 30 DAS per EFP. The additional crew would only be in support of data collection activities, and would not process catch to be landed for sale. Exemption from possession limit and minimum sizes would support catch sampling activities, and ensure the vessel is not in conflict with possession regulations while collecting catch data. All catch above a possession limit or below a minimum size would be discarded as soon as practicable following data collection.

For all EFP trips, scallop catch would be evaluated by the number of baskets caught and a total catch weight would be obtained by the researcher. Total weight of bycatch species and individual measurements to the nearest centimeter would also be obtained by the researcher. If the volume of the catch is large, subsampling protocols would be necessary. All bycatch would be returned to the sea as soon as practicable following data collection. All research trips would otherwise be conducted in a manner consistent with normal commercial fishing conditions and catch would be retained for sale.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: April 22, 2015.

**Emily H. Menashes,**

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

[FR Doc. 2015–09649 Filed 4–24–15; 8:45 am]

BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XD914**

### Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Scientific and Statistical Committee (SSC) of the Mid-Atlantic Fishery Management Council (Council) will hold a meeting.

**DATES:** The SSC meeting will be held on Wednesday and Thursday, May 13–14, 2015. The meeting will begin at 9 a.m. on May 13 and conclude by 2 p.m. on May 14.

**ADDRESSES:** The meeting will be held at Lord Baltimore Hotel, 20 West Baltimore Street, Baltimore, MD 21201; telephone: (410) 539–8400.

*Council address:* Mid-Atlantic Fishery Management Council, 800 N. State Street, 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, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 526–5255.

**SUPPLEMENTARY INFORMATION:** Agenda items to be discussed at the SSC meeting include: Develop multi-year ABC specification for Atlantic mackerel;

review shad/river herring cap in mackerel fishery; review data update and Fishery Performance Reports for long-finned squid, *Illex* squid, butterfish, surf clams and ocean quahogs; review butterfish mortality cap in the long-finned squid fishery; develop science and research needs for blueline tilefish; and receive an update on the Council's Research Plan.

**Special Accommodations**

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: April 22, 2015.

**Tracey L. Thompson,**

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

[FR Doc. 2015–09670 Filed 4–24–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

**[Docket Number DARS–2015–0022]**

### Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Administrative Matters

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Notice and request for comments regarding a proposed extension of an approved information collection requirement.

**SUMMARY:** In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection under OMB Control Number 0704–0454 for use through August 31, 2015. DoD is proposing that OMB extend its approval for use for three additional years.

**DATES:** DoD will consider all comments received by June 26, 2015.

**ADDRESSES:** You may submit comments, identified by OMB Control Number 0704–0454, using any of the following methods:

○ *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

○ *Email: osd.dfars@mail.mil.* Include OMB Control Number 0704–0454 in the subject line of the message.

○ *Fax:* (571) 372–6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Jennifer Johnson, OUSD(AT&L)DPAP/DARS, Rm. 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.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jennifer Johnson, at (571) 372–6176.

**SUPPLEMENTARY INFORMATION:**

*Title and OMB Number:* Defense Federal Acquisition Regulation Supplement (DFARS): U.S.-International Atomic Energy Agency Additional Protocol; OMB Control Number 0704–0454.

*Needs and Uses:* This requirement is necessary to provide for protection of information or activities with national security significance. As such, this information collection requires contractors to comply with the notification process at DFARS 252.204–7010, Requirement for Contractor to Notify DoD if the Contractor's Activities are Subject to Reporting Under the U.S.-International Atomic Energy Agency Additional Protocol.

*Affected Public:* Businesses and other for-profit entities and not-for-profit institutions.

*Number of Respondents:* 300.

*Responses per Respondent:* 1.

*Annual Responses:* 300.

*Average Burden per Response:* 1 hour.

*Annual Response Burden Hours:* 300.

*Reporting Frequency:* On occasion.

**Summary of Information Collection**

Under the U.S.-International Atomic Energy Agency (IAEA) Additional Protocol, the United States is required to declare a wide range of public and private nuclear-related activities to the IAEA and potentially provide access to IAEA inspectors for verification purposes. The U.S.-IAEA Additional Protocol permits the United States unilaterally to declare exclusions from inspection requirements for activities with direct national security significance.

The clause at 252.204–7010 is included in contracts for research and development or major defense acquisition programs involving fissionable materials (*e.g.,* uranium, plutonium, neptunium, thorium, americium); other radiological source materials; or technologies directly related to nuclear power production, including nuclear or radiological waste materials.

The clause requires a contractor to provide written notification to the applicable DoD program manager and a copy of the notification to the contracting officer if the contractor is required to report its activities under the U.S.-IAEA Additional Protocol. Upon such notification, DoD will determine if access may be granted to IAEA inspectors, or if a national security exclusion should be applied.

**Manuel Quinones,**

*Editor, Defense Acquisition Regulations System.*

[FR Doc. 2015–09695 Filed 4–24–15; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

**[Docket Number DARS–2015–0006]**

### Submission for OMB Review; Comment Request

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Notice.

**SUMMARY:** The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

**DATES:** Consideration will be given to all comments received by May 27, 2015.

**SUPPLEMENTARY INFORMATION:**

*Title and OMB Number:* Information Collection in Support of the DoD Acquisition Process (Various Miscellaneous Requirements), Defense Federal Acquisition Regulations Supplement (DFARS) parts 208, 209, and 235 and associated clauses in part 252; OMB Control Number 0704–0187.

*Type of Request:* Extension.

*Number of Respondents:* 491.

*Responses per Respondent:* Approximately 2.

*Annual Responses:* 1,062.

*Average Burden per Response:* 1.5 hours.

*Annual Burden Hours:* 1,464.

*Needs and Uses:* This information collection requirement pertains to information required in DFARS parts 208, 209, 235, and associated clauses in part 252 that an offeror must submit to DoD in response to a request for proposals or an invitation for bids or a contract requirement. DoD uses this information to—

- Determine whether to provide precious metals as Government-furnished material;
- Determine an entity's eligibility for award of a contract under a national security program due to ownership or control by a foreign government;
- Determine whether there is a compelling reason for a contractor to enter into a subcontract in excess of $30,000 with a firm, or subsidiary of a firm, that is identified in the List of Parties Excluded from Federal Procurement and Nonprocurement as being ineligible for award of Defense subcontracts because it is owned or controlled by the government of a country that is a state sponsor of terrorism;
- Determine an entity's eligibility for award of a contract due to ownership or control by the government of a country that is a state sponsor of terrorism;
- Evaluate claims of indemnification for losses or damages occurring under a research and development contract; and
- Keep track of radio frequencies on electronic equipment under research and development contracts so that the user does not override or interfere with the use of that frequency by another user.

*Affected Public:* Businesses or other for-profit and not-for-profit institutions.

*Frequency:* On occasion.

*OMB Desk Officer:* Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

*Instructions:* All submissions received must include the agency name, docket number, and title for the **Federal Register** document. The general policy for comments and other public submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

*DoD Public Collections Clearance Officer:* Mr. Frederick C. Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at: Publication Collections Program, WHS/ESD Information Management Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

**Manuel Quinones,**

*Editor, Defense Acquisition Regulations System.*

[FR Doc. 2015–09680 Filed 4–24–15; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Notification of an Open Meeting of the National Defense University Board of Visitors (BOV)

**AGENCY:** National Defense University, DoD.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Department of Defense is publishing this notice to announce that the following Federal Advisory Committee meeting of the National Defense University Board of Visitors (BOV) will take place.

**DATES:** The meeting will be held on Wednesday, May 20, 2015, from 12:00 p.m. to 4:30 p.m. and will continue on Thursday, May 21, 2015, from 8:00 a.m. to 11:15 a.m.

**ADDRESSES:** The Board of Visitors meeting will be held at Marshall Hall, Building 62, Room 155B, the National Defense University, 300 5th Avenue SW., Fort McNair, Washington, DC 20319–5066.

**FOR FURTHER INFORMATION CONTACT:** The point of contact for this notice of open meeting is Ms. Joycelyn Stevens at (202) 685–0079, Fax (202) 685–3920 or *StevensJ7@ndu.edu.*

**SUPPLEMENTARY INFORMATION:** This meeting is being held 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 102–3.150. Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. The future agenda will include discussion on accreditation compliance, organizational management, strategic planning, resource management, and other matters of interest to the National Defense University. Limited space made available for observers will be allocated on a first come, first served basis. Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, written statements to the committee may be submitted to the committee at any time or in response to a stated planned meeting agenda by FAX or email to the point of contact person listed in **FOR FURTHER INFORMATION CONTACT**. (Subject Line: Comment/Statement to the NDU BOV).

Dated: April 21, 2015.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2015–09625 Filed 4–24–15; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF EDUCATION

### President's Advisory Commission on Asian Americans and Pacific Islanders

**AGENCY:** President's Advisory Commission on Asian Americans and Pacific Islanders, U.S. Department of Education.

**ACTION:** Announcement of an open meeting.

**SUMMARY:** This notice sets forth the schedule and agenda of the meeting of the President's Advisory Commission on Asian Americans and Pacific Islanders (AAPI Commission). The notice also describes the functions of the Commission. Notice of the meeting is required by § 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of its opportunity to attend.

**DATES:** The AAPI Commission meeting will be held on May 13, 2015 from 12:00–5:00 p.m. ET, May 14, 2015 from 8:00 a.m.–12:30 p.m. ET at the U.S. Department of Education, 550 12th Street SW., 10th Floor, Washington, DC 20202.

**FOR FURTHER INFORMATION CONTACT:** Bessie Chan, White House Initiative on Asian Americans and Pacific Islanders,

Potomac Center Plaza, 550 12th Street SW., Washington, DC 20202; telephone: 202–245–6418, fax: 202–245–7166.

**SUPPLEMENTARY INFORMATION:**

*The AAPI Commission's Statutory Authority and Function:* The President's Advisory Commission on Asian Americans and Pacific Islanders is established under Executive Order 13515, dated October 14, 2009 and subsequently continued and amended by Executive Order 13585 and Executive Order 13652. The Commission is governed by the provisions of the Federal Advisory Committee Act (FACA), (Pub. L. 92–463; as amended, 5 U.S.C.A. app.) which sets forth standards for the formation and use of advisory committees. According to Executive Order 13515, the Commission shall provide advice to the President, through the Secretary of Education and a senior official to be designated by the President, on: (i) The development, monitoring, and coordination of executive branch efforts to improve the quality of life of Asian Americans and Pacific Islanders (AAPIs) through increased participation in Federal programs in which such persons may be underserved; (ii) the compilation of research and data related to AAPI populations and subpopulations; (iii) the development, monitoring, and coordination of Federal efforts to improve the economic and community development of AAPI businesses; and (iv) strategies to increase public and private-sector collaboration, and community involvement in improving the health, education, environment, and well-being of AAPIs.

Members of the public who would like to attend the meetings on May 13, 2015, and May 14, 2015 should R.S.V.P. to Bessie Chan via email at *Bessie.Chan@ed.gov* no later than May 1, 2015 at 3:00 p.m. ET.

Submission of Written Comments: Due to time constraints, there will not be a public comment period at these meetings. However, individuals wishing to provide comments to the White House Initiative on Asian Americans and Pacific Islanders and the Commission, may contact Bessie Chan via email at *Bessie.Chan@ed.gov.* Please include in the subject line the wording, ''Public Comment.''

**Meeting Agenda**

The purpose of this meeting is to discuss current and future endeavors of the White House Initiative on Asian Americans and Pacific Islanders and key issues and concerns impacting the AAPI community; review the work of the White House Initiative on Asian Americans and Pacific Islanders; determine key strategies to help meet the Commission's charge as outlined in Executive Order 13515; and determine regional engagement strategies and deliverables around regional activities.

Access to Records of the Meeting: The Department will post the official report of the meeting on the AAPI Commission Web site not later than 90 days after the meeting. Pursuant to the FACA, the public may also inspect the materials at 550 12th Street SW., Washington, DC 20202 by emailing *Bessie.Chan@ed.gov* or by calling (202) 245–6418 to schedule an appointment.

*Reasonable Accommodations:* The meeting site is accessible to individuals with disabilities. Individuals who will need accommodations for a disability in order to attend the meetings (*e.g.,* interpreting services, assistive listening devices, or material in alternative format) should notify Bessie Chan at 202–245–6418, no later than May 1, 2015. We will attempt to meet requests for accommodations after this date, but cannot guarantee their availability.

*Electronic Access to this Document:* The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

**Authority:** Executive Order No. 13515, as amended by Executive Orders 13585 and 13652.

**Ted Mitchell,**

*Under Secretary, U.S. Department of Education.*

[FR Doc. 2015–09638 Filed 4–24–15; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF ENERGY

**[Certification Notice–234]**

## Notice of Filing of Self-Certification of Coal Capability Under the Powerplant and Industrial Fuel Use Act

**AGENCY:** Office of Electricity Delivery and Energy Reliability, DOE.

**ACTION:** Notice of filing.

**SUMMARY:** On March 30, 2015, CPV Valley, LLC, as owner and operator of a new base load electric powerplant, submitted a coal capability self-certification to the Department of Energy (DOE) pursuant to § 201(d) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended, and DOE regulations in 10 CFR 501.60, 61. FUA and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**. 42 U.S.C. 8311(d) and 10 CFR 501.61(c).

**ADDRESSES:** Copies of coal capability self-certification filings are available for public inspection, upon request, in the Office of Electricity Delivery and Energy Reliability, Mail Code OE–20, Room 8G–024, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:** Christopher Lawrence at (202) 586–5260.

**SUPPLEMENTARY INFORMATION:** Title II of FUA, as amended (42 U.S.C. 8301 *et seq.*), provides that no new base load electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. Pursuant to FUA in order to meet the requirement of coal capability, the owner or operator of such a facility proposing to use natural gas or petroleum as its primary energy source shall certify to the Secretary of Energy (Secretary) prior to construction, or prior to operation as a base load electric powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with FUA section 201(a) as of the date it is filed with the Secretary. 42 U.S.C. 8311.

The following owner of a proposed new base load electric powerplant has filed a self-certification of coal-capability with DOE pursuant to FUA section 201(d) and in accordance with DOE regulations in 10 CFR 501.60, 61:

*Owner:* CPV Valley, LLC.

*Capacity:* 720 megawatts (MW).

*Plant Location:* CPV Valley Energy Center, Route 6, Middletown, NY 10940.

*In-Service Date:* October 15, 2017.

Issued in Washington, DC, on April 21, 2015.

**Brian Mills,**

*Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.*

[FR Doc. 2015–09708 Filed 4–24–15; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

**[OE Docket No. EA–410]**

## Application to Export Electric Energy; CWP Energy

**AGENCY:** Office of Electricity Delivery and Energy Reliability, DOE.

**ACTION:** Notice of Application.

**SUMMARY:** CWP Energy (Applicant) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

**DATES:** Comments, protests, or motions to intervene must be submitted on or before May 27, 2015.

**ADDRESSES:** Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to 202–586–8008.

**SUPPLEMENTARY INFORMATION:** Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On April 3, 2015, DOE received an application from CWP Energy for authority to transmit electric energy from the United States to Canada as a power marketer for five years using existing international transmission facilities.

In its application, CWP Energy states that it does not own or control any electric generation or transmission facilities, and it does not have a franchised service area. The electric energy that CWP Energy proposes to export to Canada would be surplus energy purchased from third parties such as power marketers, independent power producers, electric utilities, and Federal power marketing agencies pursuant to voluntary agreements. The existing international transmission facilities to be utilized by CWP Energy have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

*Procedural Matters:* Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning the CWP Energy application to export electric energy to Canada should be clearly marked with OE Docket No. EA–410. An additional copy is to be provided directly to both Ruta Kalvaitis Skucas, Pierce Atwood LLC, 900 17th St. NW., Suite 350, Washington, DC 20006 and to Pascal Massey, CWP Energy, 407 McGill St., Suite 315, Montreal, PQ, H2Y 2G3.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Issued in Washington, DC, on April 21, 2015.

**Brian Mills,**

*Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.*

[FR Doc. 2015–09717 Filed 4–24–15; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

**[OE Docket No. EA–375–A]**

## Application To Export Electric Energy; Rainbow Energy Marketing Corporation

**AGENCY:** Office of Electricity Delivery and Energy Reliability, DOE.

**ACTION:** Notice of application.

**SUMMARY:** Rainbow Energy Marketing Corporation (Applicant or Rainbow) has applied to renew its authority to transmit electric energy from the United States to Mexico pursuant to section 202(e) of the Federal Power Act.

**DATES:** Comments, protests, or motions to intervene must be submitted on or before May 27, 2015.

**ADDRESSES:** Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to 202–586–8008.

**SUPPLEMENTARY INFORMATION:** Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On December 15, 2010, DOE issued Order No. EA–375 to the Applicant, which authorized Rainbow to transmit electric energy from the United States to Mexico as a power marketer for a five-year term using existing international transmission facilities. That authority expires on December 15, 2015. On April 14, 2015, the Applicant filed an application with DOE for renewal of the export authority contained in Order No. EA–375 for an additional five-year term.

In its application, the Applicant states that it does not own or operate any electric generation or transmission facilities, and it does not have a franchised service area. The electric energy that the Applicant proposes to export to Mexico would be surplus energy purchased from third parties such as electric utilities and Federal power marketing agencies pursuant to voluntary agreements. The existing international transmission facilities to

be utilized by the Applicant have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

*Procedural Matters:* Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning the Rainbow application to export electric energy to Mexico should be clearly marked with OE Docket No. EA–375–A. An additional copy is to be provided directly to both Joseph A. Wolfe, Rainbow Energy Marketing Corporation, Kirkwood Office Tower, 919 South 7th Street, Suite 405, Bismarck, ND 58504 and Steven A. Weiler, Stinson Leonard Street LLP, 1775 Pennsylvania Ave. NW., Suite 800, Washington, DC 20006.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Issued in Washington, DC, on April 21, 2015.

**Brian Mills,**

*Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.*

[FR Doc. 2015–09714 Filed 4–24–15; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket Nos. CP15–160–000; PF14–15–000]**

### Columbia Gas Transmission, LLC, KO Transmission Company; Notice of Application

Take notice that on April 7, 2015, Columbia Gas Transmission, LLC (Columbia), 5151 San Felipe, Suite 2500, Houston, Texas 77056, and KO Transmission Company (KOT), 139 East Fourth Street, Cincinnati, Ohio 45202, jointly filed in the above referenced docket an application pursuant to section 7(c) of the Natural Gas Act (NGA), and Part 157 of the Commission's regulations requesting authorization for the replacement of existing high pressure, bare steel pipeline located in Menifee, Montgomery, Bath, Nicholas, Robertson, and Bracken counties, Kentucky (referred as the E System Project), all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application may be directed to counsel for Columbia Gas, Tyler R. Brown, Senior Counsel, Columbia Gas Transmission, LLC, 5151 San Felipe Suite 2500, Houston, Texas 77056 at (713) 386–3797.

Specifically the applicants propose to replace approximately 22.1 miles of existing 20-inch bare pipe with new coated pipe from North Fork of Licking River to Foster Station, 0.4 miles of existing 14-inch pipeline, installing one bi-directional launcher/receiver assembly on EM2 line at South Means and one bi-directional launcher/receiver assembly at Foster Station, as well as eight mainline valve settings, and appurtenant facilities. The Applicants requested a pre-determination of rolled-in rates treatment for the Project. The cost of the project will be approximately $119.5 million.

On June 27, 2014, the Commission staff granted Columbia's request to utilize the Pre-Filing Process and assigned Docket No. PF14–15–000 to staff activities involved in the Project. Now, as of the filing of the April 7, 2015 application, the Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket No. CP15–160–000, as noted in the caption of this Notice.

Pursuant to section 157.9 of the Commission's rules (18 CFR 157.9), within 90 days of this Notice, the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit seven copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be

taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

*Comment Date:* May 11, 2015.

Dated: April 20, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–09688 Filed 4–24–15; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RC15–1–000]**

### Southern California Edison Company; Notice of Filing

Take notice that on April 16, 2015, Southern California Edison Company filed an application requesting the Federal Energy Regulatory Commission (Commission) to make a determination that certain 115 kV facilities are used in local distribution and are not part of the bulk electric system.

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 Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5:00 p.m. Eastern Time on May 18, 2015.

Dated: April 20, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–09691 Filed 4–24–15; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. AD15–2–000]**

### Review of Cost Submittals by Other Federal Agencies for Administering Part I of the Federal Power Act; Notice Requesting Questions and Comments on Fiscal Year 2014 Other Federal Agency Cost Submissions

In its *Order On Rehearing Consolidating Administrative Annual Charges Bill Appeals And Modifying Annual Charges Billing Procedures,* 109 FERC ¶ 61,040 (2004) the Commission set forth an annual process for Other Federal Agencies (OFAs) to submit their costs related to Administering Part I of the Federal Power Act. Pursuant to the established process, the Director of the Financial Management Division, Office of the Executive Director, on October 14, 2014, issued a letter requesting the OFAs to submit their costs by December 31, 2014 using the OFA Cost Submission Form.

Upon receipt of the agency submissions, the Commission posted the information in eLibrary, and issued, on March 12, 2015, a notice announcing the date for a technical conference to review the submitted costs. On March 26, 2015, the Commission held the technical conference. Technical conference transcripts, submitted cost forms, and detailed supporting documents are all available for review under Docket No. AD15–2. These documents are accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and are available for review in the Commission's Public Reference Room in Washington, DC.

Interested parties may file specific questions and comments on the FY 2014 OFA cost submissions with the Commission under Docket No. AD15–2, no later than May 1, 2015. Once filed, the Commission will forward the questions and comments to the OFAs for response.

Anyone with questions pertaining to the technical conference or this notice should contact Norman Richardson at (202) 502–6219 (via email at *norman.richardson@ferc.gov*) or Raven A. Rodriguez at (202) 502–6276 (via email at *raven.rodriguez@ferc.gov*).

Dated: April 20, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–09686 Filed 4–24–15; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. AD15–5–000]**

### Available Transfer Capability Standards for Wholesale Electric Transmission Services; Supplemental Notice Providing for Post-Workshop Comments

As discussed in prior notices in this docket, Federal Energy Regulatory Commission (Commission) staff will convene a workshop to discuss the calculation of Available Transfer Capability (ATC) for wholesale electric

transmission services.[1] Parties wishing to file comments following the April 21, 2015 workshop may do so on or before May 6, 2015.

Dated: April 21, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–09662 Filed 4–24–15; 8:45 am]

**BILLING CODE 6717–01–P**

[1]Prior Notices were issued on December 30, 2014 and January 30, February 27 and March 31, 2015.

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 2467–021]**

### Pacific Gas and Electric Company, Merced Irrigation District; Notice of Application for Transfer of License, Approval of Transfer of Project Lands, Substitution of Relicense Applicant, and Soliciting Comments, Motions To Intervene, and Protests

On April 1, 2015, Pacific Gas and Electric Company (transferor) and Merced Irrigation District (transferee) filed a joint application for: (1) Transfer of license for the Merced Falls Project, FERC No. 2467, located on the Merced River in Merced and Mariposa counties, California, (2) approval of transfer of project lands, and (3) substitution of the transferee for the transferor as the applicant in the pending application for a new license filed by the transferor in Project No. 2467–020.

*Applicant Contact:* For Transferor: Ms. Annette Faraglia, Attorney, Pacific Gas and Electric Company, 77 Beale Street, B30A–2470, San Francisco, CA 94105, Phone: 415–973–7145, Email: *ARF3@pge.com* and Mr. Randy Livingston, VP—Power Generation, Pacific Gas and Electric Company, 245 Market St., N11E–1137, San Francisco, CA 94105, Phone: 415–973–6950, Email: *RSL3@pge.com.* For Transferee: Mr. Phillip R. McMurray, General Counsel, Merced Irrigation District, 744 W. 20th Street, Merced, CA 95340–3601, Phone: 209–354–2855, Email: *PMcMurray@mercedid.org.*

*FERC Contact:* Patricia W. Gillis, (202) 502–8735.

*Deadline for filing comments, motions to intervene, and protests:* 30 days from the issuance date of this notice, by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene, comments, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–2467.

Dated: April 20, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–09690 Filed 4–24–15; 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:* ER10–2371–002.
*Applicants:* New York Independent System Operator, Inc.
*Description:* Compliance filing per 35: NYISO Compliance tariff revs to SCR rules to be effective 3/19/2015.
*Filed Date:* 4/20/15.
*Accession Number:* 20150420–5274.
*Comments Due:* 5 p.m. ET 5/11/15.

*Docket Numbers:* ER13–948–003.
*Applicants:* Entergy Services, Inc.
*Description:* Motion of Entergy Services, Inc., on behalf of the Entergy Operating Companies, for temporary and limited waiver of formula rate implementation requirements, etc.
*Filed Date:* 4/17/15.
*Accession Number:* 20150417–5390.
*Comments Due:* 5 p.m. ET 5/8/15.

*Docket Numbers:* ER15–1540–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): 1066R7 Northeast Texas Electric Cooperative NITSA and NOA to be effective 4/1/2015.
*Filed Date:* 4/21/15.
*Accession Number:* 20150421–5060.
*Comments Due:* 5 p.m. ET 5/12/15.

*Docket Numbers:* ER15–1541–000.
*Applicants:* Midcontinent Independent System Operator, Inc.
*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): 2015–04–21_SA 764 Bills of Sale for ATC-Wisconsin Electric Agreement to be effective 6/21/2015.
*Filed Date:* 4/21/15.
*Accession Number:* 20150421–5072.
*Comments Due:* 5 p.m. ET 5/12/15.

*Docket Numbers:* ER15–1542–000.
*Applicants:* Midcontinent Independent System Operator, Inc.
*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): 2015–04–21_SA 2779 ATC-Wisconsin Electric Common Facilities Agreement to be effective 6/21/2015.
*Filed Date:* 4/21/15.
*Accession Number:* 20150421–5080.
*Comments Due:* 5 p.m. ET 5/12/15.

*Docket Numbers:* ER15–1543–000.
*Applicants:* Wisconsin Public Service Corporation.
*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): Revised Local Balancing Authority Area Agreement Between WPSC and WPL to be effective 6/20/2015.
*Filed Date:* 4/21/15.
*Accession Number:* 20150421–5083.
*Comments Due:* 5 p.m. ET 5/12/15.

*Docket Numbers:* ER15–1544–000.
*Applicants:* Midcontinent Independent System Operator, Inc., WPPI Energy.
*Description:* Request for Transmission Incentive Rate Treatments of Midcontinent Independent System Operator, Inc. and WPPI Energy.
*Filed Date:* 4/21/15.
*Accession Number:* 20150421–5103.
*Comments Due:* 5 p.m. ET 5/12/15.

*Docket Numbers:* ER15–1545–000.
*Applicants:* Midcontinent Independent System Operator, Inc.
*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): 2015–04–21_SA 764 Notice of Termination of Bills of Sale (ATC–WE) to be effective 6/21/2015.
*Filed Date:* 4/21/15.
*Accession Number:* 20150421–5117.
*Comments Due:* 5 p.m. ET 5/12/15.

*Docket Numbers:* ER15–1546–000.
*Applicants:* Wisconsin Public Service Corporation.
*Description:* § 205(d) rate filing per 35.13(a)(2)(iii): WPSC Filing to Add Regulatory Asset to W–1A Tariff and Rate Schedule No. 87 to be effective 6/1/2015.
*Filed Date:* 4/21/15.
*Accession Number:* 20150421–5209.
*Comments Due:* 5 p.m. ET 5/12/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern

time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 21, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–09663 Filed 4–24–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP15–169–000]**

### Transcontinental Gas Pipe Line Company, LLC; Notice of Intent To Prepare a Supplement Environmental Assessment for the Amended Rock Springs Expansion Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare a supplemental environmental assessment (EA) that will discuss the environmental impacts of the amendment to the Rock Springs Expansion Project (Project) involving construction and operation of facilities by Transcontinental Gas Pipe Line Company, LLC (Transco) in Lancaster County, Pennsylvania. The Commission will use this supplemental EA in its decision-making process to determine whether the amendment to the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the supplemental EA. Please note that the scoping period will close on May 20, 2015.

You may submit comments in written form or verbally. Further details on how to submit written comments are in the Public Participation section of this notice. If you sent comments on this project to the Commission before the opening of this docket on April 13, 2015 you will need to file those comments in Docket No. CP15–169–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list and includes landowners affected by the amended Project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the planned facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

Transco provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically-asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (*www.ferc.gov*).

#### Summary of the Project and Proposed Route Modification

On March 19, 2015, FERC issued an Order Issuing Certificate (Order) to Transco authorizing the Rock Springs Expansion Project. The EA for the Project in Docket No. CP14–504–000 was issued on November 14, 2014. On March 19, 2015, Transco accepted the Order pursuant to section 157.20(a) of the Commission's Regulations. The Project is an expansion of Transco's existing pipeline system which will enable Transco to provide 192,000 dekatherms per day of incremental firm transportation capacity from Transco's Station 210 Zone 6 Pool in Mercer County, New Jersey to Old Dominion Electric Cooperative's approved Wildcat Point Generating Facility in Cecil County, Maryland.

In this amendment, Transco proposes to modify the previously authorized pipeline route in Lancaster County, Pennsylvania. The proposed alignment modification occurs from milepost (MP) 7.60 to MP 8.29 (a total of 0.69 mile). Transco is proposing to adjust the pipeline centerline alignment from the originally authorized property to the adjacent property to the east. The proposed minor route modification would not affect any new landowners, as the adjacent property owner owns other parcels on which the pipeline is sited. Additionally, the route modification would result in minor changes in workspace configurations on two other properties, including a reduction in permanent easement.

The general location map of the project facilities is shown in appendix 1.[1]

#### Land Requirements for Construction

No new workspace impacts would occur as a result of the proposed minor route modification. The minor route modification has been designed to result in no net gain of workspace required for Project construction.

#### The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[2] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the supplemental EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the supplemental EA. We will consider all filed comments during the preparation of the supplemental EA.

In the supplemental EA, we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- land use;
- water resources, fisheries, and wetlands;
- cultural resources;
- vegetation and wildlife;
- air quality and noise;
- endangered and threatened species;

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

- public safety; and
- cumulative impacts.

We will also evaluate reasonable alternatives to the proposed route modification.

The supplemental EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section beginning on page 5.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues related to this project to formally cooperate with us in the preparation of the supplemental EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

**Consultations Under Section 106 of the National Historic Preservation Act**

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Office (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our supplemental EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

**Currently Identified Environmental Issues**

The change in land use impacts includes reductions of 0.37 acre of forest land and 0.07 acre of agricultural land, and increases of 0.39 acre of open land and 0.04 acre of commercial/industrial land.

**Public Participation**

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before May 20, 2015.

For your convenience, there are three methods you can use to submit your comments to the Commission. In all instances, please reference the project docket number (CP15–169–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov*.

(1) You can file your comments electronically using the *eComment* feature located on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments electronically using the *eFiling* feature located on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

**Environmental Mailing List**

The environmental mailing list includes landowners affected by the route modification, federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project.

If we publish and distribute the supplemental EA, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

**Becoming an Intervenor**

In addition to involvement in the supplemental EA scoping process, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the User's Guide under the ''e-filing'' link on the Commission's Web site.

**Additional Information**

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* CP15–169). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: April 20, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–09689 Filed 4–24–15; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EL15–60–000]**

### Bonneville Power Administration v. Puget Sound Energy, Inc.; Notice of Complaint

Take notice that on April 20, 2015, pursuant to section 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 and sections 206 and 306 of the Federal Power Act, 16 U.S.C. 824(e) and 825(e), Bonneville Power Administration (Complainant) filed a formal complaint against Puget Sound Energy, Inc. (Respondent) alleging that the omission of the Respondent's formula transmission rate under its jurisdictional open access transmission tariff to account for and reimburse Respondent's transmission customers for prior period adjustments result in an unjust and unreasonable rate, as more fully explained in the complaint.

The Complainant states that a copy of the complaint has been served on the Respondent.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5:00 p.m. Eastern Time on May 11, 2015.

Dated: April 21, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–09664 Filed 4–24–15; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP15–162–000]**

### Northern Natural Gas Company; Notice of Request Under Blanket Authorization

Take notice that on April 10, 2015 Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124 filed a prior notice request pursuant to sections 157.205 and 157.208 of the Commission's regulations under the Natural Gas Act for authorization to construct and operate certain facilities within Northern's existing Kermit Compressor Station located near Kermit, Texas. Specifically, Northern proposes to: (i) Install and operate a new 15,900 horsepower compressor unit at the Kermit Compressor Station; and (ii) relocate approximately 200 feet of pipe to tie-in the new compressor. The project is referred to as the Permian II Expansion Project. Northern states that the proposed project will result in an incremental increase of 112,000 dekatherms per day, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this Application should be directed to Michael T. Loeffler, Senior Director, Certificates and External Affairs for Northern, 1111South 103rd Street, Omaha, Nebraska 68124, or by calling (402) 398–7103.

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents,

and will be notified of meetings associated with he Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link. Persons unable to file electronically should submit original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: April 20, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–09687 Filed 4–24–15; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9926–84–OA]**

## Request for Nominations of Candidates to the EPA's Science Advisory Board (SAB)

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) invites nominations of scientific experts from a diverse range of disciplines to be considered for appointment to the Science Advisory Board (SAB) and six SAB committees described in this notice. Appointments are anticipated to be filled by the start of Fiscal Year 2016 (October 2015).

**DATES:** Nominations should be submitted in time to arrive no later than May 27, 2015.

**FOR FURTHER INFORMATION CONTACT:** Nominators unable to submit nominations electronically as described below may submit a paper copy to the Designated Federal Officers for the committees, as identified below. General inquiries regarding the work of the SAB or SAB committees may also be directed to the designated DFOs.

Background: The SAB is a chartered Federal Advisory Committee, established in 1978 under the authority of the Environmental Research, Development and Demonstration Authorization Act (ERDDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical peer review, consultation, advice and recommendations to the EPA Administrator on the scientific bases for EPA's actions and programs. Members of the SAB constitute a distinguished body of non-EPA scientists, engineers, economists, and behavioral and social scientists who are nationally and internationally recognized experts in their respective fields. Members are appointed by the EPA Administrator for a 3-year term. Additional information about the SAB is available at *http://www.epa.gov/sab*.

Expertise Sought for the SAB: The chartered SAB provides strategic advice to the EPA Administrator on a variety of EPA science and research programs. All the work of SAB committees and panels is under the direction of the chartered SAB. The chartered SAB reviews all SAB committee and panel draft reports and determines whether they are appropriate to send to the EPA Administrator. The SAB Staff Office is seeking nominations of experts to serve on the chartered SAB in the following disciplines as they relate to human health and the environment: *Analytical chemistry; ecological sciences and ecological assessment; economics; engineering; geochemistry; health disparities; health sciences; hydrology; hydrogeology; medicine; microbiology; modeling; pediatrics; public health; risk assessment; social, behavioral and decision sciences; statistics; and toxicology.*

The SAB Staff Office is especially interested in scientists with expertise described above who have knowledge and experience in air quality; agricultural sciences; climate change; drinking water; energy and the environment; water quality; water quantity; water reuse; ecosystem services; community environmental health; sustainability; chemical safety; green chemistry; human health risk assessment; homeland security; and waste and waste management.

For further information about the chartered SAB membership appointment process and schedule, please contact Mr. Thomas Carpenter, DFO, by telephone at 202–564–4885 or by email at *carpenter.thomas@epa.gov.*

The SAB Staff Office is also seeking nominations for experts for six SAB committees: The Chemical Assessment Advisory Committee; the Drinking Water Committee; the Ecological Processes and Effects Committee; the Environmental Economics Advisory Committee; the Environmental Engineering Committee; and the Radiation Advisory Committee.

(1) The SAB Chemical Assessment Advisory Committee (CAAC) provides advice through the chartered SAB regarding selected toxicological reviews of environmental chemicals available on EPA's Integrated Risk Information System (IRIS). The SAB Staff Office is seeking nominations of experts with experience in chemical assessments. Members should have expertise in one or more of the following disciplines: *Public health; epidemiology; toxicology, including neurotoxicology, developmental/reproductive toxicology, and inhalation toxicology; carcinogenesis; PBPK modeling; biostatistics; risk assessment; and health disparities.* For further information about the CAAC membership appointment process and schedule, please contact Dr. Suhair Shallal, DFO, by telephone at 202–564–2057 or by email at *shallal.suhair@epa.gov.*

(2) The SAB Drinking Water Committee (DWC) provides advice on the scientific and technical aspects of EPA's national drinking water program. The SAB Staff Office is seeking nominations of experts with experience on drinking water issues. Members should have expertise in one or more of the following disciplines: *Environmental chemistry; environmental engineering; epidemiology; microbiology; public health; risk assessment; and toxicology.* For further information about the DWC membership appointment process and schedule, please contact Ms. Iris Goodman, DFO, by telephone at 202–564–2164 or by email at *goodman.iris@epa.gov.*

(3) The SAB Ecological Processes and Effects Committee (EPEC) provides advice on science and research to assess, protect and restore the health of ecosystems. The SAB Staff Office is seeking nominations of experts with demonstrated expertise in the following disciplines: *Aquatic ecology; marine and estuarine ecology; ecological risk assessment; ecotoxicology; systems ecology; and statistics.* For further information about the EPEC membership appointment process and schedule, please contact Dr. Thomas Armitage, DFO, by telephone at 202–564–2155 or by email at *armitage.thomas@epa.gov.*

(4) The SAB Environmental Economics Advisory Committee (EEAC) provides advice on methods and analyses related to economics, costs,

and benefits of EPA environmental programs. The SAB Staff Office is cseeking nominations of experts in *environmental economics* to serve on the EEAC. In particular, expertise will be sought in the following areas: Eonomic approaches for health risk valuation, *e.g.,* stated preference approaches, hedonic analyses, averting behavior analyses, and/or cost of illness approaches; meta-analytic approaches to assessing and aggregating valuation estimates, *e.g.,* expertise in meta-regression models; and approaches for treating uncertainty in benefit cost analyses, particularly for health risks. For further information about the EEAC membership appointment process and schedule, please contact Dr. Holly Stallworth, DFO, by telephone at 202–564–2073 or by email at *stallworth.holly@epa.gov.*

(5) The SAB Environmental Engineering Committee (EEC) provides advice on risk management technologies to control and prevent pollution. The SAB Staff Office is seeking nominations of experts in *chemical fate and transport; chemical engineering; civil engineering; environmental engineering; environmental system modeling; and wastewater treatment systems* to serve on the EEC. For further information about the EEC membership appointment process and schedule, please contact Mr. Edward Hanlon, DFO, by telephone at 202–564–2134 or by email at *hanlon.edward@epa.gov.*

(6) The Radiation Advisory Committee (RAC) provides advice on radiation protection, radiation science, and radiation risk assessment. The SAB Staff Office is seeking nominations of experts to serve on the RAC with demonstrated expertise in the following disciplines*: Fate and transport of radionuclides; nuclear waste remediation; radiation biostatistics; radiation dosimetry; and radiation exposure.* For further information about the RAC membership appointment process and schedule, please contact Mr. Edward Hanlon, DFO, by telephone at 202–564–2134 or by email at *hanlon.edward@epa.gov.*

Selection Criteria for the SAB and six SAB Committees includes:

—Demonstrated scientific credentials and disciplinary expertise in relevant fields;

—Willingness to commit time to the committee and demonstrated ability to work constructively and effectively on committees;

—Background and experiences that would help members contribute to the diversity of perspectives on the committee, *e.g.,* geographic, economic, social, cultural, educational backgrounds, professional affiliations; and other considerations; and

—For the committee as a whole, consideration of the collective breadth and depth of scientific expertise; and a balance of scientific perspectives.

As these committees undertake specific advisory activities, the SAB Staff Office will consider two additional criteria for each new activity: Absence of financial conflicts of interest and absence of an appearance of a loss of impartiality.

How to Submit Nominations: Any interested person or organization may nominate qualified persons to be considered for appointment to these advisory committees. Individuals may self-nominate. Nominations should be submitted in electronic format (preferred) following the instructions for ''Nominating Experts for Annual Membership'' provided on the SAB Web site. The form can be accessed through the ''Nomination of Experts'' link on the blue navigational bar on the SAB Web site at *http://www.epa.gov/sab.* To be considered, all nominations should include the information requested. EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, EPA encourages nominations of women and men of all racial and ethnic groups.

Nominators are asked to identify the specific committee for which nominees are to be considered. The following information should be provided on the nomination form: Contact information for the person making the nomination; contact information for the nominee; the disciplinary and specific areas of expertise of the nominee; the nominee's *curriculum vitae*; and a biographical sketch of the nominee indicating current position, educational background; research activities; sources of research funding for the last 2 years; and recent service on other national advisory committees or national professional organizations. To help the agency evaluate the effectiveness of its outreach efforts, please indicate how you learned of this nomination opportunity. Persons having questions about the nomination process or the public comment process described below, or who are unable to submit nominations through the SAB Web site, should contact the Designated Federal Officer for the committee, as identified above. The DFO will acknowledge receipt of nominations and in that acknowledgement will invite the nominee to provide any additional information that the nominee feels would be useful in considering the nomination, such as availability to participate as a member of the committee; how the nominee's background, skills and experience would contribute to the diversity of the committee; and any questions the nominee has regarding membership. The names and biosketches of qualified nominees identified by respondents to this **Federal Register** notice, and additional experts identified by the SAB Staff, will be posted in a List of Candidates on the SAB Web site at *http://www.epa.gov/sab.* Public comments on this List of Candidates will be accepted for 21 days from the date the list is posted. The public will be requested to provide relevant information or other documentation on nominees that the SAB Staff Office should consider in evaluating candidates.

Candidates invited to serve will be asked to submit the ''Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency'' (EPA Form 3110–48). This confidential form allows EPA to determine whether there is a statutory conflict between that person's public responsibilities as a Special Government Employee and private interests and activities, or the appearance of a loss of impartiality, as defined by Federal regulation. The form may be viewed and downloaded through the ''Ethics Requirements for Advisors'' link on the blue navigational bar on the SAB Web site at *http://www.epa.gov/sab.* This form should not be submitted as part of a nomination.

Dated: April 20, 2015.

**Thomas H. Brennan,**

*Deputy Director, EPA Science Advisory Board Staff Office.*

[FR Doc. 2015–09782 Filed 4–24–15; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9926–83–OA]**

## Notification of a Public Teleconference of the Chartered Science Advisory Board

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public teleconference of the Chartered SAB to discuss information provided in the agency's Fall 2014 regulatory agenda and to review the draft SAB report on the EPA's approach to develop preliminary bi-national phosphorous

objectives and loading targets for Lake Erie.

**DATES:** The public teleconference for the Chartered SAB will be held on Wednesday, May 27, 2015, from 1:00 p.m. to 3:30 p.m. (Eastern Standard Time).

*Location:* The public teleconference will be conducted by telephone only.

**FOR FURTHER INFORMATION CONTACT:** Any member of the public wishing to obtain information concerning the public teleconferences may contact Mr. Thomas Carpenter, Designated Federal Officer (DFO), EPA Science Advisory Board Staff Office (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; by telephone/voice mail at (202) 564–4885 or at *carpenter.thomas@epa.gov.* General information about the SAB as well as any updates concerning the teleconferences announced in this notice may be found on the EPA Web site at *http://www.epa.gov/sab.*

**SUPPLEMENTARY INFORMATION:** The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a federal advisory committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. Pursuant to FACA and EPA policy, notice is hereby given that the Chartered SAB will hold a public teleconference for two purposes.

The first purpose is to discuss recommendations regarding the information provided in the agency's Fall 2014 regulatory agenda, specifically planned actions and their supporting science. Information about this advisory activity can be found on the Web at *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/SAB%20Fall%202014%20Reg%20Agenda?OpenDocument.*

The second purpose of this public teleconference is to review a draft SAB consultation report on the scientific and technical merit of the EPA's draft approach to develop preliminary bi-national phosphorous objectives and loading targets for Lake Erie. Quality review is a key function of the chartered SAB. Draft reports prepared by SAB committees, panels, or work groups must be reviewed and approved by the chartered SAB before transmittal to the EPA Administrator. Consistent with FACA, the chartered SAB makes a determination in a public meeting about each draft report and determines whether the report is ready to be transmitted to the EPA Administrator.

The SAB review will focus on a draft report on the EPA's plan to use an ensemble modeling approach to develop preliminary binational phosphorous objectives, loading targets and allocations for nearshore and offshore waters. Information about this advisory activity can be found on the Web at *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/GLWQA?OpenDocument.*

*Availability of Meeting Materials:* The agenda and materials in support of these teleconferences will be available on the EPA Web site at *http://www.epa.gov/sab* in advance of the teleconferences.

*Procedures for Providing Public Input:* Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit comments for a federal advisory committee to consider as it develops advice for EPA. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for SAB panels to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the Designated Federal Officer as noted above. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a teleconference will be limited to three minutes. Each person making an oral statement should consider providing written comments as well as their oral statement so that the points presented orally can be expanded upon in writing. Interested parties should contact Mr. Carpenter, DFO, in writing (preferably via email) at the contact information noted above one week before the teleconference to be placed on the list of public speakers. *Written Statements:* Written statements should be supplied to the DFO, preferably via email, at the contact information noted above one week before each of the teleconferences so that the information may be made available to the Board members for their consideration. It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

*Accessibility:* For information on access or services for individuals with disabilities, please contact Mr. Thomas Carpenter at (202) 564–4885 or *carpenter.thomas@epa.gov.* To request accommodation of a disability, please contact Mr. Carpenter preferably at least ten days prior to the teleconference to give EPA as much time as possible to process your request.

Dated: April 20, 2015.

**Thomas H. Brennan,**

*Deputy Director, EPA Science Advisory Staff Office.*

[FR Doc. 2015–09756 Filed 4–24–15; 8:45 am]

BILLING CODE 6560–50–P

## EXPORT-IMPORT BANK

**[Public Notice: 2015–6001]**

### Agency Information Collection Activities: Comment Request

**AGENCY:** Export-Import Bank of the U.S.

**ACTION:** Submission for OMB review and comments request.

*Title:* EIB 15–01, Generic Clearance for the Collection of Feedback on Electronic Interfaces with Customers.

**SUMMARY:** The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal Agencies with an opportunity to comment on proposed information collections, as required by the Paperwork Reduction Act of 1995.

Ex-Im Bank is soliciting comments on the following proposed Generic Information Collection Request (Generic ICR): ''Generic Clearance for the Collection of Qualitative Feedback on Electronic Interfaces with Customers'' for approval under the Paperwork Reduction Act. This collection was developed as an effort to streamline the process for seeking feedback from the public on the electronic interfaces (Web site and online application systems) used by Ex-Im Bank customers. This notice announces our intent to submit this collection to OMB for approval and solicits comments on specific aspects for the proposed information collection.

**DATES:** Comments should be received on or before June 26, 2015 to be assured of consideration.

**ADDRESSES:** Comments may be submitted electronically on *http://www.regulations.gov* or by mail to Michele Kuester, Export-Import Bank of the United States, 811 Vermont Ave. NW., Washington, DC 20571.

**SUPPLEMENTARY INFORMATION:**

*Title:* EIB 15–01, Generic Clearance for the Collection of Feedback on Electronic Interfaces with Customers.

*OMB Number:* TBD.

*Type of Review:* New.

*Need and Use:* This is a request for a new three-year generic clearance for the Export-Import Bank of the United States (Ex-Im Bank) that will allow it to develop, test and improve its digital customer interfaces—including on-line applications for financing support, other on-line reporting, and the agency's Web site. The procedures used to this effect include, but are not limited to, tests of various interfaces through focus groups, cognitive testing, web-based experiments and usability testing.

Ex-Im Bank is requesting the generic clearance in order to test new or proposed methodologies for customer interfaces, data collection activities, and Web site design. We believe the generic clearance will be a helpful vehicle for evaluating the usability and effectiveness of these methodologies.

In the past, Ex-Im Bank has approached design and testing through convenience samples of nine or fewer persons to provide input and feedback or by relying on employee feedback. Neither of these approaches meets Ex-Im Bank's needs to collect meaningful information on the usability and effectiveness of its customer interfaces.

In the reference document we have provided a description of the scope of possible activities that might be covered under this clearance. The requested clearance is important to Ex-Im Bank's usability testing program, because of the length of time required to develop customer interfaces.

The specific methods proposed for coverage by this clearance are listed below. Also outlined are the procedures Ex-Im Bank plans to put in place for keeping OMB informed about the identity of the usability tests and the nature of the research activities being conducted.

The methods proposed for use in system development are as follows:

- Pilot testing,
- Behavior coding,
- Exploratory interviews,
- Split sample experiments,
- Cognitive and usability interviews, and
- Focus groups.

Before each testing activity is undertaken, Ex-Im Bank will provide OMB with a memo describing the study to be conducted and a copy of the instrumentation and instruction materials that will be used. Depending on the stage of instrumentation development, this may be a printed questionnaire, a set of prototype items showing each item type to be used and the range of topics to be covered by the questionnaire, or an interview script. When split sample experiments are conducted, either in small group sessions or as part of a field test, the different versions of the questionnaires to be used will be provided. For a test of alternative procedures, the description and rationale for the procedures will be submitted. A brief description of the planned field activity will also be provided.

*Affected Public:* Individuals representing companies engaged in business with the Export-Import Bank of the U.S.

*Annual Number of Respondents:* 72.

*Estimated Time per Respondent:* 12 hours.

*Annual Burden Hours:* 864 hours.

*Frequency of Reporting or Use:* On occasion.

*Government Expenses:* TBD.

**Toya Woods,**

*Records Management Division, Office of the Chief Information Officer.*

[FR Doc. 2015–09668 Filed 4–24–15; 8:45 am]

BILLING CODE 6690–01–P

## FEDERAL COMMUNICATIONS COMMISSION

**[IB Docket No. 04–286; DA 15–461]**

## Eighth Meeting of the Advisory Committee for the 2015 World Radiocommunication Conference

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the eighth meeting of the WRC–15 Advisory Committee will be held on May 20, 2015, at the Federal Communications Commission. The Advisory Committee will consider recommendations from its Informal Working Groups.

**DATES:** May 20, 2015; 11:00 a.m.

**ADDRESSES:** Federal Communications Commission, 445 12th Street SW., Room TW–C305, Washington DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Alexander Roytblat, Designated Federal Official, WRC–15 Advisory Committee, FCC International Bureau, Strategic Analysis and Negotiations Division, at (202) 418–7501.

**SUPPLEMENTARY INFORMATION:** The Federal Communications Commission (FCC) established the WRC–15 Advisory Committee to provide advice, technical support and recommendations relating to the preparation for the 2015 World Radiocommunication Conference (WRC–15). In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the eighth meeting of the WRC–15 Advisory Committee. Additional information regarding the WRC–15 Advisory Committee is available on the Advisory Committee's Web site, *http://www.fcc.gov/encyclopedia/world-radiocommunication-conference-wrc-15.* The meeting is open to the public. The meeting will be broadcast live with open captioning over the Internet from the FCC Live Web page at *www.fcc.gov/live.* Comments may be presented at the WRC–15 Advisory Committee meeting or in advance of the meeting by email to: *WRC–15@fcc.gov.*

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). Such requests should include a detailed description of the accommodation needed. In addition, please include a way for the FCC to contact the requester if more information is needed to fill the request. Please allow at least five days' advance notice; last minute requests will be accepted, but may not be possible to accommodate.

The proposed agenda for the eighth meeting is as follows:

### Agenda

Eighth Meeting of the WRC–15 Advisory Committee, Federal Communications Commission, 445 12th Street SW., Room TW–C305, Washington, DC 20554, May 20, 2015; 11:00 a.m.

1. Opening Remarks
2. Approval of Agenda
3. Approval of the Minutes of the Seventh Meeting
4. IWG Reports and Documents Relating to Preliminary Views and Draft Proposals
5. Future Meetings
6. Other Business

Federal Communications Commission.

**Mindel De La Torre,**

*Chief, International Bureau.*

[FR Doc. 2015–09760 Filed 4–24–15; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL ELECTION COMMISSION

### Sunshine Act Meeting

**AGENCY:** Federal Election Commission

**DATE AND TIME:** Tuesday, April 21, 2015 at 10:00 a.m. and its continuation on Thursday, April 23, 2015 at the conclusion of the open meeting.

**PLACE:** 999 E Street NW., Washington, DC.

**STATUS:** This meeting will be closed to the public.

**Federal Register Notice of Previous Announcement—80 FR 20496**

Change in the Meeting: This meeting was continued at 12:00 p.m. on April 22, 2015 rather than at the conclusion of the Open Meeting on April 23, 2015.

* * * * *

**FOR FURTHER INFORMATION CONTACT:** Person to Contact for Information: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

**Shelley E. Garr,**

*Deputy Secretary.*

[FR Doc. 2015–09738 Filed 4–23–15; 11:15 am]

**BILLING CODE 6715–01–P**

## FEDERAL RESERVE SYSTEM

### Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

**AGENCY:** Board of Governors of the Federal Reserve System.

**SUMMARY:** Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority. 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 instrument(s) 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.

**FOR FURTHER INFORMATION CONTACT:** Federal Reserve Board, Acting Clearance Officer—Mark Tokarski—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.

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.

*Final approval under OMB delegated authority of the extension for three years, without revision, of the following reports:*

1. *Report title:* Senior Loan Officer Opinion Survey on Bank Lending Practices.

*Agency form number:* FR 2018.

*OMB control number:* 7100–0058.

*Frequency:* Up to six times a year.

*Reporters:* Domestically chartered large commercial banks and large U.S. branches and agencies of foreign banks.

*Estimated annual reporting hours:* 1,248 hours.

*Estimated average hours per response:* 2 hours.

*Number of respondents:* 104.

*General description of report:* This information collection is authorized by Sections 2A, 11 and 12A of the Federal Reserve Act (12 U.S.C. 225a, 248(a) and 263) and Section 7 of the International Banking Act (12 U.S.C. 3105(c)(2)) and is voluntary. Individual survey responses from each respondent can be held confidential under section (b)(4) of the Freedom of Information Act (5 U.S.C. 552(b)(4)). However, certain data from the survey is reported is aggregate from and the information in aggregate form is made publicly available and not considered confidential.

*Abstract:* The FR 2018 is conducted with a senior loan officer at each respondent bank, generally through electronic submission, up to six times a year. The purpose of the survey is to provide qualitative and limited quantitative information on credit availability and demand, as well as evolving developments and lending practices in the U.S. loan markets. Consequently, a portion of the questions in each survey typically covers special topics of timely interest. There is the option to survey other types of respondents (such as other depository institutions, bank holding companies, or other financial entities) should the need arise. The FR 2018 survey provides crucial information for monitoring and understanding the evolution of lending practices at banks and developments in credit markets.

*Current Actions:* On February 11, 2015, the Federal Reserve published a notice in the **Federal Register** (80 FR 7592) requesting public comment for 60 days on the extension, without revision, of the Senior Loan Officer Opinion Survey on Bank Lending Practices. The comment period for this notice expired on April 13, 2015. The Federal Reserve did not receive any comments. The information collection will be extended for three years, without revision, as proposed.

2. *Report title:* Senior Financial Officer Survey.

*Agency form number:* FR 2023.

*OMB control number:* 7100–0223.

*Frequency:* Up to four times a year.

*Reporters:* Domestically chartered large commercial banks.

*Estimated annual reporting hours:* 960 hours.

*Estimated average hours per response:* 3 hours.

*Number of respondents:* 80.

*General description of report:* This information collection is authorized by Sections 2A, 11 and 12A of the Federal Reserve Act (12 U.S.C. 225a, 248(a), and 263) and is voluntary. The ability of the Federal Reserve to maintain the confidentiality of information provided by respondents to the FR 2023 surveys will be determined on a case by case basis depending on the data collected under a particular survey. The individual survey responses from each respondent can be held confidential under section (b)(4) of the Freedom of Information Act (5 U.S.C. 552(b)(4)).

*Abstract:* The Federal Reserve uses this voluntary survey to collect qualitative and limited quantitative information about liability management, the provision of financial services, and the functioning of key financial markets. Responses are obtained from a senior officer at each participating institution usually through an electronic submission. The survey is conducted when major informational needs arise and cannot be met from existing data sources. The survey does not have a fixed set of questions; each survey consists of a limited number of questions directed at topics of timely interest. The survey helps pinpoint developing trends in bank funding practices, enabling the Federal Reserve to distinguish these trends from transitory phenomena.

*Current Actions:* On February 11, 2015, the Federal Reserve published a notice in the **Federal Register** (80 FR 7592) requesting public comment for 60 days on the extension, without revision,

of the Senior Financial Officer Survey. The comment period for this notice expired on April 13, 2015. The Federal Reserve did not receive any comments. The information collection will be extended for three years, without revision, as proposed.

3. *Report title:* Survey of Terms of Lending.

*Agency form number:* FR 2028A, FR 2028B, and FR 2028S.

*OMB control number:* 7100–0061.

*Frequency:* Quarterly.

*Reporters:* Commercial banks (FR 2028A, FR 2028B, and FR 2028S) and U.S. branches and agencies of foreign banks (FR 2028A and FR 2028S only).

*Estimated annual reporting hours:* 7,358 hours.

*Estimated average hours per response:* FR 2028A, 3.6 hours; FR 2028B, 1.4 hours; and FR 2028S, 0.1 hours.

*Number of respondents:* FR 2028A, 398; FR 2028B, 250; and FR 2028S, 567.

*General description of report:* This information collection is authorized by section 11(a)(2) of the Federal Reserve Act (12 U.S.C. 248(a)(2)) and is voluntary. Individual responses reported on the FR 2028A and FR 2028B are regarded as confidential under the Freedom of Information Act (5 U.S.C. 552(b)(4)).

*Abstract:* The Survey of Terms of Lending collects unique information concerning price and certain nonprice terms of loans made to businesses and farmers during the first full business week of the mid-month of each quarter (February, May, August, and November). The survey comprises three reporting forms: the FR 2028A, Survey of Terms of Business Lending; the FR 2028B, Survey of Terms of Bank Lending to Farmers; and the FR 2028S, Prime Rate Supplement to the Survey of Terms of Lending (STL). The FR 2028A and FR 2028B collect detailed data on individual loans made during the survey week, and the FR 2028S collects the prime interest rate for each day of the survey from both FR 2028A and FR 2028B respondents. From these sample STL data, estimates of the terms of business loans and farm loans extended during the reporting week are constructed. The aggregate estimates for business loans are published in the quarterly E.2 release, *Survey of Terms of Business Lending,* and aggregate estimates for farm loans are published in the E.15 release, *Agricultural Finance Databook.*

*Current Actions:* On February 11, 2015, the Federal Reserve published a notice in the **Federal Register** (80 FR 7592) requesting public comment for 60 days on the extension, without revision, of the FR 2028A, FR 2028B, and FR 2028S. The comment period for this notice expired on April 13, 2015. The Federal Reserve did not receive any comments. The information collection will be extended for three years, without revision, as proposed.

4. *Report title:* Bank Holding Company Report of Insured Depository Institutions' Section 23A Transactions with Affiliates.

*Agency form number:* FR Y–8.

*OMB control number:* 7100–0126.

*Frequency:* Quarterly.

*Reporters:* Top-tier bank holding companies (BHCs), including financial holding companies (FHCs) and savings and loan holding companies (SLHCs), for all insured depository institutions that are owned by the BHC and by foreign banking organizations (FBOs) that directly own a U.S. subsidiary bank.

*Estimated annual reporting hours:* Institutions with covered transactions, 30,326 hours; Institutions without covered transactions, 17,096 hours.

*Estimated average hours per response:* Institutions with covered transactions, 7.8 hours; Institutions without covered transactions, 1 hour.

*Number of respondents:* Institutions with covered transactions, 972; Institutions without covered transactions, 4,274.

*General description of report:* This information collection is mandatory pursuant to section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)); section 225.5(b) of Regulation Y (12 CFR 225.5(b)); and Section 10(b)(2) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)(2)), as amended by section 369 of the Dodd-Frank Act. The data are confidential pursuant to the Freedom of Information Act (5 U.S.C. 552(b)(4)). Section (b)(4) exempts information deemed competitively sensitive from disclosure.

*Abstract:* The FR Y–8 collects information on transactions between an insured depository institution and its affiliates that are subject to section 23A of the Federal Reserve Act. The primary purpose of the data is to enhance the Federal Reserve's ability to monitor insured depository institutions' exposures to affiliates and to ensure insured depository institutions' compliance with section 23A of the Federal Reserve Act. Section 23A of the Federal Reserve Act is one of the most important statutes on limiting exposures to individual institutions and protecting against the expansion of the federal safety net.

*Current Actions:* On February 11, 2015, the Federal Reserve published a notice in the **Federal Register** (80 FR 7592) requesting public comment for 60 days on the extension, without revision, of the FR Y–8. The comment period for this notice expired on April 13, 2015. The Federal Reserve did not receive any comments. The information collection will be extended for three years, without revision, as proposed.

Board of Governors of the Federal Reserve System, April 21, 2015.

**Robert deV. Frierson,**

*Secretary of the Board.*

[FR Doc. 2015–09642 Filed 4–24–15; 8:45 am]

BILLING CODE 6210–01–P

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 12, 2015.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *John D. McLanahan, Jr. Children's Trust, with John D. McLanahan, Jr., as trustee; C. Rhodes McLanahan II Children's Trust, with C. Rhodes McLanahan II, as trustee; and Margaret D. McLanahan, all of Athens, Georgia; and Margaret M. Staton Children's Trust, with Margaret M. Staton, as trustee; Drennen M. Farley Children's Trust, with Drennen M. Farley, as trustee; Brandon T. Farley, and John C. Staton, III;* all of Atlanta, Georgia; to join the McLanahan Family control group, and acquire voting shares of First American Bancorp, and thereby indirectly acquire voting shares of First American Bank and Trust Company, both in Athens, Georgia.

Board of Governors of the Federal Reserve System, April 22, 2015.

**Michael J. Lewandowski,**

*Associate Secretary of the Board.*

[FR Doc. 2015–09732 Filed 4–24–15; 8:45 am]

BILLING CODE 6210–01–P

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 22, 2015.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Liberty Bancorp, Inc.,* Liberty, Missouri; to become a bank holding company upon the conversion of BankLiberty, Liberty, Missouri, to a commercial bank.

Board of Governors of the Federal Reserve System, April 22, 2015.

**Michael J. Lewandowski,**

*Associate Secretary of the Board.*

[FR Doc. 2015–09733 Filed 4–24–15; 8:45 am]

BILLING CODE 6210–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to Funding Opportunity Announcement (FOA) RFA–CE–15–005, Research to Evaluate the CDC Heads Up Concussion Initiative in Youth Sports.

*Time And Date:* 12:00 p.m.–5:00 p.m., May 19, 2015 (Closed).

*Place:* Teleconference.

*Status:* The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

*Matters for Discussion:* The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Research to Evaluate the CDC Heads Up Concussion Initiative in Youth Sports'', FOA RFA–CE–15–005.

*Contact Person for More Information:* Jane Suen, Dr.P.H, M.S., Scientific Review Officer, CDC, 4770 Buford Highway NE., Mailstop F63, Atlanta, Georgia 30341–3724, Telephone: (770)488–4281.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Elaine L. Baker,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 2015–09644 Filed 4–24–15; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to Special Interest Projects (SIP) 15–010, Planning, Implementing and Evaluating Physical Activity and Public Health Training Courses, and, SIP 15–011, Implementation and Evaluation of a Mall Walking Program.

*Time and Date:* 11:00 a.m.–6:00 p.m., May 21, 2015 (Closed).

*Place:* Teleconference.

*Status:* The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

*Matters for Discussion:* The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Planning, Implementing and Evaluating Physical Activity and Public Health Training Courses, SIP 15–010, and, Implementation and Evaluation of a Mall Walking Program, SIP 15–011.''

*Contact Person for More Information:* Brenda Colley Gilbert, Ph.D., M.S.P.H., Director, Extramural Research Program Operations and Services, CDC, 4770 Buford Highway, NE., Mailstop F–80, Atlanta, Georgia 30341, Telephone: (770) 488–6295, *BJC4@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Elaine L. Baker,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 2015–09648 Filed 4–24–15; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to Special Interest Projects (SIP) 15–007, HPV Vaccine Impact among Men who have Sex with Men (MSM), and, SIP 15–009, Serosorting and Other Seroadaptive Behaviors among Men who have Sex with Men (MSM) in the US-designing a Brief Survey Tool for Use in Clinical Practice.

*Time and Date:* 10:00 a.m.–6:00 p.m., May 18, 2015 (Closed).

*Place:* Teleconference.

*Status:* The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

*Matters for Discussion:* The meeting will include the initial review, discussion, and evaluation of applications received in response to ''HPV Vaccine Impact among Men who have Sex with Men (MSM), SIP 15–007, and, Serosorting and Other Seroadaptive Behaviors among Men who have Sex with Men (MSM) in the US-designing a Brief Survey Tool for Use in Clinical Practice, SIP 15–009.''

*Contact Person for More Information:* Brenda Colley Gilbert, Ph.D., M.S.P.H., Director, Extramural Research Program Operations and Services, CDC, 4770 Buford Highway NE., Mailstop F–80, Atlanta, Georgia 30341, Telephone: (770) 488–6295, *BJC4@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Elaine L. Baker,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 2015–09647 Filed 4–24–15; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to Special Interest Projects (SIP) 15–002, Economic Impact of Clinical Trials among Children Diagnosed with Cancer, and, SIP 15–005, Economic Costs of Quality Assurance in Lung Cancer Screening Programs.

*Time and Date:* 11:00 a.m.–6:00 p.m., May 19, 2015.

*Place:* Teleconference.

*Status:* The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

*Matters for Discussion:* The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Economic Impact of Clinical Trials among Children Diagnosed with Cancer, SIP 15–002, and, Economic Costs of Quality Assurance in Lung Cancer Screening Programs, SIP 15–005.''

*Contact Person for More Information:* Brenda Colley Gilbert, Ph.D., M.S.P.H., Director, Extramural Research Program Operations and Services, CDC, 4770 Buford Highway NE., Mailstop F–80, Atlanta, Georgia 30341, Telephone: (770) 488–6295, *BJC4@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Elaine L. Baker,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 2015–09645 Filed 4–24–15; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[CMS–7036–N2]**

### Health Insurance Marketplace, Medicare, Medicaid, and Children's Health Insurance Programs; Additional Request for Nominations for the Advisory Panel on Outreach and Education (APOE)

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

**ACTION:** Notice.

**SUMMARY:** This notice requests nominations for individuals to serve on the Advisory Panel on Outreach and Education (APOE).

**DATES:** Nominations will be considered if we receive them at the appropriate address, provided in the ''**ADDRESSES**'' section of this notice, no later than 5 p.m., Eastern Daylight Time (e.d.t.) on May 18, 2015.

**ADDRESSES:** Mail or deliver nominations to the following address: Abigail Huffman, Designated Federal Official, Office of Communications, CMS, 7500 Security Boulevard, Mail Stop S1–05–06, Baltimore, MD 21244–1850 or email nominations to *Abigail.Huffman1@cms.hhs.gov.*

**FOR FURTHER INFORMATION CONTACT:** Abigail Huffman, Designated Federal Official, Office of Communications, CMS, 7500 Security Boulevard, Mail Stop S1–05–06, Baltimore, MD 21244, 410–786–0897, email, *Abigail.Huffman1@cms.hhs.gov* or visit the Web site at *http://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/APOE.html.* Press inquiries are handled through the CMS Press Office at (202) 690–6145.

**SUPPLEMENTARY INFORMATION:**

## I. Background

The Advisory Panel on Medicare Education (the predecessor to the APOE) was created in 1999 to advise and make recommendations to the Secretary of the U.S. Department of Health and Human Services (HHS), and the Administrator of the Centers for Medicare & Medicaid Services (CMS) on the effective implementation of national Medicare education programs, including with respect to the Medicare + Choice (M + C) program added by the Balanced Budget Act of 1997 (Pub. L. 105–33).

The Medicare Modernization Act of 2003 (MMA) (Pub. L. 108–173) expanded the existing health plan options and benefits available under the

M + C program and renamed it the Medicare Advantage (MA) program. We have had substantial responsibilities to provide information to Medicare beneficiaries about the range of health plan options available and better tools to evaluate these options. Successful MA program implementation required us to consider the views and policy input from a variety of private sector constituents and to develop a broad range of public-private partnerships.

In addition, the Secretary, and by delegation, the Administrator of CMS were authorized under Title I of MMA to establish the Medicare prescription drug benefit. The drug benefit allows beneficiaries to obtain qualified prescription drug coverage. In order to effectively administer the MA program and the Medicare prescription drug benefit, we have substantial responsibilities to provide information to Medicare beneficiaries about the range of health plan options and benefits available, and to develop better tools to evaluate these plans and benefits.

The Affordable Care Act (Patient Protection and Affordable Care Act, Pub. L. 111–148, and Health Care and Education Reconciliation Act of 2010, Pub. L. 111–152) expanded the availability of other options for health care coverage and enacted a number of changes to Medicare as well as to Medicaid and the Children's Health Insurance Program (CHIP). Qualified individuals and qualified employers are now able to purchase private health insurance coverage through a competitive marketplace, called the Affordable Insurance Exchange (or Health Insurance Marketplace, or ''Marketplace''). In order to effectively implement and administer these changes, we must provide information to consumers, providers, and other stakeholders through education and outreach programs regarding how existing programs will change and the expanded range of health coverage options available, including private health insurance coverage through the Marketplace. The APOE (the Panel) allows us to consider a broad range of views and information from interested audiences in connection with this effort and to identify opportunities to enhance the effectiveness of education strategies concerning the Affordable Care Act.

The APOE charter was originally created in 1999, as the charter for the Advisory Panel on Medicare Education. The panel's charter was renewed, and the panel was renamed the Advisory Panel for Outreach and Education, on January 21, 2011. The charter was most recently renewed on January 21, 2015. The APOE will advise HHS and CMS on developing and implementing education programs for individuals with, or who are eligible for, the Health Insurance Marketplace, Medicare, Medicaid, and CHIP about options for selecting health care coverage under these and other programs intended to ensure improved access to quality care, including preventive services. The scope of this panel, convened under the Federal Advisory Committee Act (FACA), also includes advising on education of providers and stakeholders with respect to the Affordable Care Act and certain provisions of the Health Information Technology for Economic and Clinical Health (HITECH) Act enacted as part of the American Recovery and Reinvestment Act of 2009 (ARRA).

The charter will terminate on January 21, 2017, unless renewed by appropriate action. The APOE was chartered under 42 U.S.C. 222 of the Public Health Service Act, as amended. The APOE is governed by the provisions of FACA (Pub. L. 92–463), as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of federal advisory committees.

In accordance with the renewed charter, the APOE will advise the Secretary and the Administrator on optimal strategies for the following:

- Developing and implementing education and outreach programs for individuals enrolled in, or eligible for, Medicare, Medicaid, and the Children's Health Insurance Program (CHIP), or coverage available through the Health Insurance Marketplace.
- Enhancing the federal government's effectiveness in informing Health Insurance Marketplace, Medicare, Medicaid, and CHIP consumers, issuers, providers, and stakeholders through education and outreach programs of issues regarding these programs, including the appropriate use of public-private partnerships to leverage the resources of the private sector in educating beneficiaries, providers, and stakeholders.
- Expanding outreach to vulnerable and underserved communities, including racial and ethnic minorities, in the context of Health Insurance Marketplace, Medicare, Medicaid, and CHIP education programs.
- Assembling and sharing an information base of ''best practices'' for helping consumers evaluate health coverage options.
- Building and leveraging existing community infrastructures for information, counseling, and assistance.
- Establishing links between outreach and education, promoting consumer understanding of health care coverage choices, and facilitating consumer selection/enrollment, which in turn support the overarching goal of improved access to quality care, including preventive services, envisioned under the Affordable Care Act.

In the February 27, 2015 **Federal Register** (80 FR 10688), we published a notice titled ''Health Insurance Marketplace, Medicare, Medicaid, and Children's Health Insurance Programs; Renewal of the Advisory Panel on Outreach and Education (APOE) and Request for Nominations''. The notice announced the renewal of the APOE charter and requested nominations for individuals to serve on the APOE.

## II. Provisions of this Notice

This notice is an additional solicitation of nominees for the Panel. The APOE shall consist of no more than 20 members. The Chair shall either be appointed from among the 20 members, or a federal official will be designated to serve as the Chair. The charter requires that meetings shall be held approximately four times per year. Members will be expected to attend all meetings. The members and the Chair shall be selected from authorities knowledgeable in one or more of the following fields:

- Senior citizen advocacy
- Outreach to minority and underserved communities
- Health communications
- Disease-related advocacy
- Disability policy and access
- Health economics research
- Behavioral health
- Health insurers and plans
- Health information technology (IT)
- Social media
- Direct patient care
- Matters of labor and retirement

Representatives of the general public may also serve on the APOE.

This notice announces that, in July 2015, the terms of 11 existing members will expire, and in October 2015, the terms of 2 additional members will expire. This notice invites interested organizations or individuals to submit nominations for membership for all 13 upcoming vacancies on the APOE (no self-nominations will be accepted). The Secretary, or designee, will appoint new members to the APOE from among those candidates determined to have the expertise required to meet specific agency needs, in a manner to ensure an appropriate balance of membership. We are committed to ensuring that the interests of both women and men, members of all racial and ethnic groups, and disabled individuals are adequately

represented on the APOE. Therefore, we encourage nominations of qualified candidates who can represent these interests. Any interested organization or person may nominate one or more qualified persons.

Each nomination must include a letter stating that the nominee has expressed a willingness to serve as a Panel member and must be accompanied by a curricula vitae and a brief biographical summary of the nominee's experience.

While we are looking for experts in a number of fields, our most critical needs are for experts in Health IT, Tribal Affairs, Community Health Centers/Medically Underserved Populations, African-American Health/Disparities, Health/Disability, Quality/Disparities, and State Programs/Medicaid/Rural.

We are requesting that all curricula vitae include the following:

- Date of birth
- Place of birth
- Title and current position
- Professional affiliation
- Home and business address
- Telephone and fax numbers
- Email address
- List of areas of expertise

Phone interviews of nominees may also be requested after review of the nominations.

In order to permit an evaluation of possible sources of conflict of interest, potential candidates will be asked to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts.

Members are invited to serve for 2-year terms, contingent upon the renewal of the APOE by appropriate action prior to its termination. A member may serve after the expiration of his or her term until a successor takes office. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of that term.

## III. Copies of the Charter

The Secretary's Charter for the APOE is available on the CMS Web site at: *http://www.cms.gov/Regulations-andGuidance/Guidance/FACA/APOE.html,* or you may obtain a copy of the charter by submitting a request to the contact listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

**Authority:** Sec. 222 of the Public Health Service Act (42 U.S.C. 217a) and sec. 10(a) of Pub. L. 92–463 (5 U.S.C. App. 2, sec. 10(a) and 41 CFR 102–3).

Dated: *April 21, 2015.*

**Andrew M. Slavitt**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

[FR Doc. 2015–09730 Filed 4–24–15; 8:45 am]

BILLING CODE 4120–01–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2015–D–1309]**

### M8 Electronic Common Technical Document v4.0 Draft Implementation Guide v2.0; Electronic Common Technical Document v4.0 Implementation Package Draft Specification for Submission Formats v2.0; International Conference on Harmonisation; Draft Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance entitled ''M8 Electronic Common Technical Document (eCTD) v4.0 Draft Implementation Guide v2.0'' (the M8 eCTD draft implementation guidance) and a related document entitled ''eCTD v4.0 Implementation Package Draft Specification for Submission Formats v2.0'' (the draft specifications document). The M8 eCTD draft implementation guidance and the draft specifications document were prepared under the auspices of the International Conference on Harmonisation (ICH) of Technical Requirements for Registration of Pharmaceuticals for Human Use. The M8 eCTD draft implementation guidance provides instructions for creating the eCTD v4.0 Health Level 7 Regulated Product Submission (RPS) message for Modules 2 through 5 of the eCTD. The draft specifications document provides specifications for creating files for inclusion in the eCTD. These draft documents represent major updates to the eCTD specifications.

**DATES:** Although you can comment on any guidance at any time (see 21 CFR 10.115 (g)(5)), to ensure that the Agency considers your comment on these draft documents before it begins work on the final versions of the documents, submit either electronic or written comments on the draft documents by May 27, 2015.

**ADDRESSES:** Submit written requests for single copies of the draft documents to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist the office in processing your requests. The draft documents may also be obtained by mail by calling CBER at 1–800–835–4709 or 240–402–7800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance documents.

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

**FOR FURTHER INFORMATION CONTACT:** *Regarding the guidance:* Jared Lantzy, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 1116, Silver Spring, MD 20993–0002, 301–796–0597; or Mark Gray, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7217, Silver Spring, MD 20993–0002, 301–796–2081.

*Regarding the ICH:* Michelle Limoli, Center for Drug Evaluation and Research, International Programs, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1174, Silver Spring, MD 20993–0002, 301–796–8377.

**SUPPLEMENTARY INFORMATION:**

## I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input

from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The eight ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; the Japanese Pharmaceutical Manufacturers Association; CDER and CBER, FDA; the Pharmaceutical Research and Manufacturers of America; Health Canada; and Swissmedic. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization and the European Free Trade Area.

The eCTD is an ICH standard based on specifications developed by ICH and its member parties. The ICH M2 Expert Working Group has previously developed a list of requirements for input in the eCTD RPS Project. The list of requirements was last updated on November 11, 2010, and is available at *http://estri.ich.org/ICH_eCTD_NMV_Requirements-V4-0.pdf* (FDA has verified the Web site address, but FDA is not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register**).

The ICH M8 Expert Working Group was formed in November 2010 to assume responsibility for the continued development of the next major version of the eCTD.

In February 2015, the ICH Steering Committee agreed that a draft guidance entitled ''M8 eCTD v4.0 Draft Implementation Guide v2.0'' and the related document entitled ''eCTD v4.0 Implementation Package Draft Specification for Submission Formats v2.0'' should be made available for public comment. These documents are the product of the M8 Expert Working Group. Comments about these draft documents will be considered by FDA and the M8 Expert Working Group.

Since adoption of the eCTD standard, the ICH Steering Committee has endorsed using the RPS Release 2 standard. A core feature of the RPS standard is the flexibility the message provides to enable future eCTD enhancements. The M8 eCTD draft implementation guidance provides instructions for creating the eCTD v4.0 RPS message for the ICH Modules 2 through 5 of the eCTD. The draft specifications document provides specifications for creating files for inclusion in the eCTD. These draft documents facilitate implementation of the eCTD v4.0 standard. The draft documents are being issued as a package that includes the draft ICH code list and the M8 schema files. In addition, the FDA regional/module 1 documents have been developed and are available at *http://www.fda.gov/Drugs/DevelopmentApprovalProcess/FormsSubmissionRequirements/ElectronicSubmissions/ucm309911.htm.*

The M8 eCTD draft implementation guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

## II. Comments

Interested persons may submit either electronic comments regarding these documents to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see ADDRESSES). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

## III. Electronic Access

Persons with access to the Internet may obtain the documents at *http://www.regulations.gov, http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.*

Dated: *April 21, 2015.*

**Peter Lurie,**

*Associate Commissioner for Public Health Strategy and Analysis.*

[FR Doc. 2015–09646 Filed 4–24–15; 8:45 am]

BILLING CODE 4164–01–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:* Cell Biology Integrated Review Group; Nuclear and Cytoplasmic Structure/Function and Dynamics Study Section.

*Date:* May 28–29, 2015.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* BW Plus Tuscan, a Kimpton Hotel, 425 North Point Street, San Francisco, CA 94133.

*Contact Person:* David Balasundaram, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5189, MSC 7840, Bethesda, MD 20892, 301–435–1022, *balasundaramd@csr.nih.gov.*

*Name of Committee:* Population Sciences and Epidemiology Integrated Review Group; Kidney, Nutrition, Obesity and Diabetes Study Section.

*Date:* May 28–29, 2015.

*Time:* 8:00 a.m. to 3:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.

*Contact Person:* Fungai Chanetsa, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–408–9436, *fungai.chanetsa@nih.hhs.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR Panel: High Throughput Screening.

*Date:* May 28, 2015.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Nancy Templeton, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7849, Bethesda, MD 20892, 301–408–9694, *templetonns@mail.nih.gov.*

*Name of Committee:* Cell Biology Integrated Review Group; Cellular Signaling and Regulatory Systems Study Section.
*Date:* May 28–29, 2015.
*Time:* 8:00 a.m. to 6:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.
*Contact Person:* Elena Smirnova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5187, MSC 7840, Bethesda, MD 20892, 301–357–9112, *smirnove@csr.nih.gov*.

*Name of Committee:* Immunology Integrated Review Group, Cellular and Molecular Immunology—B Study Section.
*Date:* May 28–29, 2015.
*Time:* 8:30 a.m. to 5:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
*Contact Person:* Betty Hayden, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892, 301–435–1223, *haydenb@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR Panel: Academic Industrial Partnership.
*Date:* May 28, 2015.
*Time:* 9:00 a.m. to 5:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.
*Contact Person:* Donald Scott Wright, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7854, Bethesda, MD 20892, (301) 435–8363, *wrightds@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR Panel: Pregnancy in Women with Disabilities.
*Date:* May 28, 2015.
*Time:* 10:30 a.m. to 5:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.
*Contact Person:* Priscah Mujuru, RN, MPH, DRPH, COHNS, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, 301–594–6594, *mujurup@mail.nih.gov*.

*Name of Committee:* Healthcare Delivery and Methodologies Integrated Review Group; Biomedical Computing and Health Informatics Study Section.
*Date:* May 28, 2015.
*Time:* 11:00 a.m. to 5:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Sheraton Delfina Santa Monica Hotel, 530 West Pico Boulevard, Santa Monica, CA 90405.
*Contact Person:* Melinda Jenkins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3156, MSC 7770, Bethesda, MD 20892, 301–437–7872, *jenkinsml2@mail.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Biomedical Computing and Health Informatics.
*Date:* May 28, 2015.
*Time:* 4:00 p.m. to 6:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Sheraton Delfina Santa Monica Hotel, 530 West Pico Boulevard, Santa Monica, CA 90405.
*Contact Person:* Peter J Kozel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, Bethesda, MD 20892, 301–435–1116, *kozelp@mail.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: April 21, 2015.

**Michelle Trout,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–09622 Filed 4–24–15; 8:45 am]

**BILLING CODE 4140–01P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Nursing Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Nursing Research Special Emphasis Panel; Fellowship and Career Development.
*Date:* June 4, 2015.
*Time:* 11:00 a.m. to 1:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Suite 703, Bethesda, MD 20892 (Telephone Conference Call).
*Contact Person:* Tamizchelvi Thyagarajan, Ph.D., Scientific Review Officer, National Institute of Nursing Research, National Institutes of Health, 6701 Democracy Boulevard, Suite 703, Bethesda, MD 20892, (301) 594–0343, *tamizchelvi.thyagarajan@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: April 21, 2015.

**Michelle Trout,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–09621 Filed 4–24–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

**[1651–0032]**

### Agency Information Collection Activities: Importers of Merchandise Subject to Actual Use Provisions

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** 60-Day notice and request for comments; extension of an existing collection of information.

**SUMMARY:** U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Importers of Merchandise Subject to Actual Use Provisions. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies.

**DATES:** Written comments should be received on or before June 26, 2015 to be assured of consideration.

**ADDRESSES:** Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information

collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

*Title:* Importers of Merchandise Subject to Actual Use Provisions.

*OMB Number:* 1651–0032.

*Form Number:* None.

*Abstract:* In accordance with 19 CFR 10.137, importers of goods subject to the actual use provisions of the Harmonized Tariff Schedule of the United States (HTSUS) are required to maintain detailed records to establish that these goods were actually used as contemplated by the law and to support the importer's claim for a free or reduced rate of duty. The importer shall maintain records of use or disposition for a period of 3 years from the date of liquidation of the entry, and the records shall be available at all times for examination by CBP.

*Current Actions:* CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

*Type of Review:* Extension (without change).

*Affected Public:* Businesses.

*Estimated Number of Respondents:* 12,000.

*Estimated Time per Respondent:* 65 minutes.

*Estimated Total Annual Burden Hours:* 13,000.

Dated: April 20, 2015.

**Tracey Denning,**

*Agency Clearance Officer, U.S. Customs and Border Protection.*

[FR Doc. 2015–09693 Filed 4–24–15; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

**[1651–0096]**

### Agency Information Collection Activities: Transfer of Cargo to a Container Station

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** 60-Day Notice and request for comments; extension of an existing collection of information.

**SUMMARY:** U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Transfer of Cargo to a Container Station. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies.

**DATES:** Written comments should be received on or before June 26, 2015 to be assured of consideration.

**ADDRESSES:** Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

*Title:* Transfer of Cargo to a Container Station.

*OMB Number:* 1651–0096.

*Form Number:* None.

*Abstract:* Before the filing of an entry of merchandise for the purpose of breaking bulk and redelivering cargo, containerized cargo may be moved from the place of unlading or may be received directly at the container station from a bonded carrier after transportation in-bond. This also applies to loose cargo as part of containerized cargo. In accordance with 19 CFR 19.42, the container station operator may make a request for the transfer of a container to the station by submitting to CBP an abstract of the manifest for the transferred containers including the bill of lading number, marks, numbers, description of the contents and consignee.

*Current Actions:* CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

*Type of Review:* Extension (without change).

*Affected Public:* Businesses.

*Estimated Number of Respondents:* 14,327.

*Estimated Number of Annual Responses per Respondent:* 25.

*Estimated Total Annual Responses:* 358,175.

*Estimated Time per Response:* 7 minutes.

*Estimated Total Annual Burden Hours:* 41,548.

Dated: April 20, 2015.

**Tracey Denning,**

*Agency Clearance Officer, U.S. Customs and Border Protection.*

[FR Doc. 2015–09679 Filed 4–24–15; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2014–0022]**

### Technical Mapping Advisory Council

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Committee Management; Notice of Federal Advisory Committee Meeting.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) Technical Mapping Advisory Council (TMAC) will meet in person on May 12–13, 2015, in Reston, Virginia. The meeting will be open to the public.

**DATES:** The TMAC will meet on Tuesday, May 12, 2015, from 8:00 a.m.–5:45 p.m., and Wednesday, May 13, 2015, from 8:00 a.m.–5:15 p.m., Eastern Daylight Savings Time (EDT). Please note that the meeting will close early if the TMAC has completed its business.

**ADDRESSES:** The meeting will be held in the auditorium of the United States Geological Survey headquarters building located at 12201 Sunrise Valley Drive Reston, VA 20192. Members of the public who wish to attend the meeting must register in advance by sending an email to *FEMA-TMAC@fema.dhs.gov* (attention Mark Crowell) by 11 p.m. EDT on Thursday, May 7, 2015. Members of the public must check in at the Visitor's entrance security desk; photo identification is required.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the person listed in **FOR FURTHER INFORMATION CONTACT** below as soon as possible.

To facilitate public participation, members of the public are invited to provide written comments on the issues to be considered by the TMAC, as listed in the ''Supplementary Information'' section below. Associated meeting materials will be available at *www.fema.gov/TMAC* for review by May 4th, 2015. Written comments to be considered by the committee at the time of the meeting must be submitted and received by Thursday, May 7, 2015, identified by Docket ID FEMA–2014–0022, and submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email:* Address the email to: *FEMA-RULES@fema.dhs.gov* and CC: *FEMA-TMAC@fema.dhs.gov.* Include the docket number in the subject line of the message. Include name and contact detail in the body of the email.
- *Mail:* Regulatory Affairs Division, Office of Chief Counsel, FEMA, 500 C Street SW., Room 8NE, Washington, DC 20472–3100.

*Instructions:* All submissions received must include the words ''Federal Emergency Management Agency'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

*Docket:* For docket access to read background documents or comments received by the TMAC, go to *http://www.regulations.gov* and search for the Docket ID FEMA–2014–0022.

A public comment period will be held on May 12, 2015, from 5:15 p.m. to 5:45 p.m. and again on March 13, 2015, from 3:15–3:45 p.m. Speakers are requested to limit their comments to no more than three minutes. The public comment period will not exceed 30 minutes. Please note that the public comment period may end before the time indicated, following the last call for comments. Contact the individual listed below to register as a speaker by close of business on Thursday, May 7, 2015.

**FOR FURTHER INFORMATION CONTACT:** Mark Crowell, Designated Federal Officer for the TMAC, FEMA, 1800 South Bell Street Arlington, VA 22202, telephone (202) 646–3432, and email *mark.crowell@fema.dhs.gov.* The TMAC Web site is: *http://www.fema.gov/TMAC.*

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. Appendix.

As required by the *Biggert-Waters Flood Insurance Reform Act of 2012,* the TMAC makes recommendations to the FEMA Administrator on: (1) How to improve, in a cost-effective manner, the (a) accuracy, general quality, ease of use, and distribution and dissemination of flood insurance rate maps and risk data; and (b) performance metrics and milestones required to effectively and efficiently map flood risk areas in the United States; (2) mapping standards and guidelines for (a) flood insurance rate maps; and (b) data accuracy, data quality, data currency, and data eligibility; (3) how to maintain, on an ongoing basis, flood insurance rate maps and flood risk identification; (4) procedures for delegating mapping activities to State and local mapping partners; and (5) (a) methods for improving interagency and intergovernmental coordination on flood mapping and flood risk determination; and (b) a funding strategy to leverage and coordinate budgets and expenditures across Federal agencies. Furthermore, the TMAC is required to submit an annual report to the FEMA Administrator that contains: (1) A description of the activities of the Council; (2) an evaluation of the status and performance of flood insurance rate maps and mapping activities to revise and update Flood Insurance Rate Maps; and (3) a summary of recommendations made by the Council to the FEMA Administrator.

The TMAC must also develop recommendations on how to ensure that flood insurance rate maps incorporate the best available climate science to assess flood risks and ensure that FEMA uses the best available methodology to consider the impact of the rise in sea level and future development on flood risk. The TMAC must collect these recommendations and present them to the FEMA Administrator in a future conditions risk assessment and modeling report.

Further, in accordance with the *Homeowner Flood Insurance Affordability Act of 2014,* the TMAC must develop a review report related to flood mapping in support of the National Flood Insurance Program (NFIP).

*Agenda:* On May 12, 2015, the TMAC members will discuss the Council's work process regarding data and associated recommendations that will be needed in preparation of the reports and receive report outs from the following TMAC subcommittees: (1) Future Conditions; (2) Flood Hazard Risk Generation and Dissemination; and (3) Operations, Coordination, and Leveraging. A brief public comment period will take place prior to a vote on each topic. In addition, invited subject matter experts will brief TMAC members on FEMA's database-driven all digital display status/transition and the lending and insurance perspective. A two-hour Subcommittee Breakout Session will be held from 1:45–3:45 p.m.

On May 13, 2015, the TMAC members will discuss (1) the report outs from the TMAC subcommittees, (2) deliberations on content for the 2015 reports, and (3) next steps for TMAC discussions and report development. A brief public comment period will take place prior to a vote on each topic. In addition, invited subject matter experts will brief TMAC members on map generation and workflow process. A Subcommittee Breakout Session will be held from 9:45–11:15 a.m., and another Subcommittee Breakout Session will be held from 1–1:45 p.m. The full agenda

and related briefing materials will be available at *http://www.fema.gov/TMAC* for review by May 4th, 2015.

Dated: April 22, 2015.

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2015–09768 Filed 4–24–15; 8:45 am]

**BILLING CODE 9110–12–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Reclamation

**[RR04084000, XXXR4081X1, RN.20350010.REG0000]**

### Colorado River Basin Salinity Control Advisory Council Notice of Public Meeting

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Colorado River Basin Salinity Control Advisory Council (Council) was established by the Colorado River Basin Salinity Control Act of 1974 (Pub. L. 93–320) (Act) to receive reports and advise Federal agencies on implementing the Act. In accordance with the Federal Advisory Committee Act, the Bureau of Reclamation announces that the Council will meet as detailed below. The meeting of the Council is open to the public.

**DATES:** The Council will convene the meeting on Wednesday, May 20, 2015, at 1:00 p.m. and recess at approximately 5:00 p.m. The Council will reconvene the meeting on Thursday, May 21, 2015, at 8:30 a.m. and adjourn the meeting at approximately 11:00 a.m.

**ADDRESSES:** The meeting will be held at the Utah State Capitol Building, Senate Room 210, located at 350 North State Street, Salt Lake City, Utah. Send written comments to Mr. Kib Jacobson, Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 8100, Salt Lake City, Utah 84138–1147; telephone (801) 524–3753; email at: *kjacobson@usbr.gov.*

**FOR FURTHER INFORMATION CONTACT:** Kib Jacobson, telephone (801) 524–3753; email at: *kjacobson@usbr.gov.*

**SUPPLEMENTARY INFORMATION:** Any member of the public may file written statements with the Council before, during, or up to 30 days after the meeting either in person or by mail. To the extent that time permits, the Council chairman will allow public presentation of oral comments at the meeting. To allow full consideration of information by Council members, written notice must be provided at least 5 days prior to the meeting. Any written comments received prior to the meeting will be provided to Council members at the meeting.

The purpose of the meeting will be to discuss and take appropriate actions regarding the following: (1) The Basin States Program created by Public Law 110–246, which amended the Act; (2) responses to the Advisory Council Report; and (3) other items within the jurisdiction of the Council.

#### Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in your comment, please be advised 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: March 27, 2015.

**Reed R. Murray,**

*Acting Regional Director, Upper Colorado Region.*

[FR Doc. 2015–08922 Filed 4–24–15; 8:45 am]

**BILLING CODE 4332–90–P**

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

**[S1D1S SS08011000 SX066A000 67F 134S180110; S2D2S SS08011000 SX066A00 33F 13xs501520]**

### Notice of Proposed Information Collection; Request for Comments for 1029–0043

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSMRE) is announcing its intention to request renewed approval for the collection of information associated with bond and insurance requirements for surface coal mining and reclamation operations under regulatory programs. This information collection activity was previously approved by the Office of Management and Budget (OMB), and assigned control number 1029–0043.

**DATES:** Comments on the proposed information collection activity must be received by June 26, 2015, to be assured of consideration.

**ADDRESSES:** Submit comments to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Room 203–SIB, Washington, DC 20240. Comments may also be submitted electronically to *jtrelease@osmre.gov.*

**FOR FURTHER INFORMATION CONTACT:** To receive a copy of the information collection request contact John Trelease, at (202) 208–2783 or via email at *jtrelease@osmre.gov.*

**SUPPLEMENTARY INFORMATION:** OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. This notice identifies an information collection that OSMRE will be submitting to OMB for approval. This collection is contained in 30 CFR part 800—Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations under Regulatory Programs. OSMRE will request a 3-year term of approval for each information collection activity.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control number for part 800 is 1029–0043. Responses are required to obtain a benefit for this collection.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSMRE's submission of the information collection request to OMB.

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.

This notice provides the public with 60 days in which to comment on the

following information collection activity:

*Title:* 30 CFR part 800—Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations under Regulatory Programs.

*OMB Control Number:* 1029–0043.

*Summary:* The regulations at 30 CFR part 800 primarily implement section 509 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), which requires that people planning to conduct surface coal mining operations first post a performance bond to guarantee fulfillment of all reclamation obligations under the approved permit. The regulations also establish bond release requirements and procedures consistent with section 519 of the Act, liability insurance requirements pursuant to section 507(f) of the Act, and procedures for bond forfeiture should the permittee default on reclamation obligations.

*Bureau Form Number:* None.

*Frequency of Collection:* On occasion.

*Description of Respondents:* Surface coal mining and reclamation permittees and State regulatory authorities.

*Total Annual Responses:* 12,215.

*Total Annual Burden Hours:* 112,626 hours.

*Total Annual Non-wage costs:* $1,510,214.

Dated: April 17, 2015.

**Harry J. Payne,**

*Chief, Division of Regulatory Support.*

[FR Doc. 2015–09725 Filed 4–24–15; 8:45 am]

**BILLING CODE 4310–05–P**

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

**[S1D1S SS08011000 SX066A000 67F 134S180110; S2D2S SS08011000 SX066A00 33F 13xs501520]**

### Notice of Proposed Information Collection; Request for Comments for 1029–0035

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSMRE) is announcing its intention to request renewed approval for the collection of information for surface and underground mining permit applications—minimum requirements for information on environmental resources. This information collection activity was previously approved by the Office of Management and Budget (OMB), and assigned control number 1029–0035.

**DATES:** Comments on the proposed information collection must be received by June 26, 2015, to be assured of consideration.

**ADDRESSES:** Submit comments to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Room 203–SIB, Washington, DC 20240. Comments may also be submitted electronically to *jtrelease@osmre.gov.*

**FOR FURTHER INFORMATION CONTACT:** To receive a copy of the information collection request contact John Trelease, at (202) 208–2783, or by email at *jtrelease@osmre.gov.*

**SUPPLEMENTARY INFORMATION:** OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. This notice identifies an information collection that OSMRE will be submitting to OMB for renewed approval. This collection is contained in 30 CFR parts 779 and 783—Surface and Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources. OSMRE will request a 3-year term of approval for this information collection activity.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control number for parts 779 and 783 is 1029–0035. Responses are required to obtain a benefit for this collection.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSMRE's submission of the information collection request to OMB.

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.

This notice provides the public with 60 days in which to comment on the following information collection activity:

*Title:* 30 CFR parts 779 and 783—Surface and Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources.

*OMB Control Number:* 1029–0035.

*Summary:* Applicants for surface and underground coal mining permits are required to provide adequate descriptions of the environmental resources that may be affected by proposed mining activities. The information will be used by the regulatory authority to determine if the applicant can comply with environmental protection performance standards.

*Bureau Form Number:* None.

*Frequency of Collection:* Once.

*Description of Respondents:* 219 coal mining operators and 24 state regulatory authorities.

*Total Annual Responses:* 2,175.

*Total Annual Burden Hours:* 188,816.

*Total Annual Non-Wage Burden Cost:* $0.

Dated: April 17, 2015.

**Harry J. Payne,**

*Chief, Division of Regulatory Support.*

[FR Doc. 2015–09709 Filed 4–24–15; 8:45 am]

**BILLING CODE 4310–05–P**

## INTERNATIONAL TRADE COMMISSION

### Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Touchscreen Controllers and Products Containing the Same, DN 3066*; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

**FOR FURTHER INFORMATION CONTACT:** Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission,

500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at EDIS,[1] and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at USITC.[2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at EDIS.[3] Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Synaptics Incorporated on April 21, 2015. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain touchscreen controllers and products containing the same. The complaint names as respondents Shenzhen Huiding Technology Co., Ltd. a/k/a Shenzhen Goodix Technology Co., Ltd of China; Goodix Technology Inc. of San Diego, CA; and BLU Products, Inc. of Doral, FL. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. § 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3066'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *Electronic Filing Procedures*[4]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[5]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: April 21, 2015.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2015–09666 Filed 4–24–15; 8:45 am]

**BILLING CODE 7020–02–P**

[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 332–227]**

### Caribbean Basin Economic Recovery Act: Impact on U.S. Industries and Consumers and on Beneficiary Countries, 22nd Report

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice of opportunity to submit information in connection with the 22nd report.

**SUMMARY:** The Commission is inviting the public to submit information in writing in connection with the preparation of its 22nd report under section 215 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2704), which requires the Commission to report biennially to the Congress and the President by September 30 of each reporting year on the economic impact of the Act on U.S. industries and U.S. consumers and on the economy of the beneficiary countries. The report is being prepared under Commission investigation No. 332–227, *Caribbean Basin Economic Recovery Act: Impact on U.S. Industries and Consumers and on Beneficiary Countries.* The report will cover trade during calendar years 2013 and 2014, and will be transmitted to the Congress and the President by September 30, 2015.

**DATES:** June 1, 2015: Deadline for filing written submissions.

September 30, 2015: Transmittal of Commission report to Congress and the President.

**ADDRESSES:** All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://www.usitc.gov/secretary/edis.htm.*

**FOR FURTHER INFORMATION CONTACT:** Justino De La Cruz (202–205–3252 or *justino.delacruz@usitc.gov*) or Wen Jin Yuan (202–205–2383 or *Wen.Yuan@usitc.gov*) Country and Regional Analysis Division, Office of Economics, U.S. International Trade Commission, Washington, DC 20436. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Peg O'Laughlin, Public Affairs Officer (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Web site at *http://www.usitc.gov.* 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.

**SUPPLEMENTARY INFORMATION:**

*Background:* Section 215(a)(1) of the Caribbean Basin Economic Recovery Act (CBERA) (19 U.S.C. 2704(a)(1)) requires that the Commission submit biennial reports to the Congress and the President regarding the economic impact of the Act on U.S. industries and consumers, and on the economy of the beneficiary countries. Section 215(b)(1) requires that the reports include, but not be limited to, an assessment regarding:

(A) The actual effect, during the period covered by the report, of [CBERA] on the United States economy generally, as well as on those specific domestic industries which produce articles that are like, or directly competitive with, articles being imported into the United States from beneficiary countries; and

(B) the probable future effect which this Act will have on the United States economy generally, as well as on such domestic industries, before the provisions of this Act terminate.

The report will cover trade with Antigua and Barbuda, Aruba, The Bahamas, Barbados, Belize, British Virgin Islands, Curaçao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago. The President designated Curaçao as a beneficiary country for purposes of CBERA and CBTPA on December 31, 2013.

Notice of institution of the investigation was published in the **Federal Register** of May 14, 1986 (51 FR 17678). The Commission plans to transmit the 22nd report, covering calendar years 2013 and 2014, by September 30, 2015.

*Written Submissions:* Interested parties are invited to submit information in writing concerning this report. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., June 1, 2015. All written submissions must conform to the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 and the Commission's Handbook on Filing Procedures require that interested parties file documents electronically on or before the filing deadline and submit eight (8) true paper copies by 12:00 p.m. eastern time on the next business day. In the event that confidential treatment of a document is requested, interested parties must file, at the same time as the eight paper copies, at least four (4) additional true paper copies in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any submissions that contain confidential business information (CBI) must also conform with the requirements of section 201.6 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''non-confidential'' version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

The Commission intends to publish only a public report in this investigation. Accordingly, any CBI received by the Commission in this investigation will not be published in a manner that would reveal the operations of the firm supplying the information. The report will be made available to the public on the Commission's Web site.

*Summaries of Written Submissions:* The Commission intends to publish, in an appendix to the report, summaries of positions provided by interested persons in their written submissions. Persons wishing to have a summary of their position included in the appendix should include a summary with their written submission. The summary may not exceed 500 words, should be in MSWord format or a format that can be easily converted to MSWord, and should not include any confidential business information. The summary will be published as provided if it meets these requirements and is germane to the subject matter of the investigation. In the appendix the Commission will identify the name of the organization furnishing the summary, and will include a link to the Commission's Electronic Document Information System (EDIS) where the full written submission can be found.

Issued: April 21, 2015.

By order of the Commission.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2015–09640 Filed 4–24–15; 8:45 am]

BILLING CODE 7020–02–P

## DEPARTMENT OF JUSTICE

**[OMB Number 1105–0091]**

## Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension Without Change, of a Previously Approved Collection; Assumption of Concurrent Federal Criminal Jurisdiction in Certain Areas of Indian Country

**AGENCY:** Office of Tribal Justice, Department of Justice.

**ACTION:** 60-day notice.

**SUMMARY:** The Department of Justice, Office of Tribal Justice, 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.

**DATES:** Comments are encouraged and will be accepted for 60 days until June 26, 2015.

**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 Mr. Tracy Toulou, Director, Office of Tribal Justice, Department of Justice, 950 Pennsylvania Avenue NW., Room 2310, Washington, DC 20530 (phone: 202–514–8812).

**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 Office of Tribal Justice, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Request to the Attorney General for Assumption of Concurrent Federal Criminal Jurisdiction.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* No form. The applicable component within the Department of Justice is the Office of Tribal Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* The Department of Justice published a rule to establish the procedures for an Indian tribe whose Indian country is subject to State criminal jurisdiction under Public Law 280 (18 U.S.C. 1162(a)) to request that the United States accept concurrent criminal jurisdiction within the tribe's Indian country, and for the Attorney General to decide whether to consent to such a request. The purpose of the collection is to provide information from the requesting tribe sufficient for the Attorney General to make a decision whether to consent to the request.

6. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Fewer than 350 respondents; 80 hours.

5. *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated maximum 28,000 annual total burden hours associated with this collection (up to 350 respondents × 80 hours = 28,000 hours). Fewer than 350 Indian tribes are eligible for the assumption of concurrent criminal jurisdiction by the United States. The Department of Justice does not know how many eligible tribes will, in fact, make such a request. The information collection will require Indian tribes seeking assumption of concurrent criminal jurisdiction by the United States to provide certain information relating to public safety within the Indian country of the tribe.

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: April 22, 2015.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2015–09676 Filed 4–24–15; 8:45 am]

**BILLING CODE 4410–A5–P**

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## DEPARTMENT OF JUSTICE

**[OMB Number 1105–0008]**

### Agency Information Collection Activities; Proposed eCollection eComments Requested; Controlled Substances Import/Export Declaration

**AGENCY:** Civil Division, Department of Justice.

**ACTION:** 30-day notice.

**SUMMARY:** The Department of Justice (DOJ), Civil Division, 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. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 80, Number 33, page 8900, on February 19, 2015, allowing for a 60-day comment period.

**DATES:** Comments are encouraged and will be accepted for an additional days until May 27, 2015.

**FOR FURTHER INFORMATION CONTACT:** 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_submissions@omb.eop.gov.* All comments should reference the 8 digit OMB number for the collection or the title of the collection. If you have questions concerning the collection, please call the Civil Division's Torts Brach at 202–616–4400.

**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/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:* Claim for Damage, Injury, or Death.

3. *The agency form number:* CIV SF 95. Civil Division, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households.

Other: Business or other for-profit, Not-for-profit institutions, and State, Local, or Tribal Governments.

Abstract: This form is used by those persons making a claim against the United States Government under the Federal Tort Claims Act.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that there will be 100,000 respondents who will each require 6 hours to respond.

6. *An estimate of the total public burden (in hours) associated with the collection:* The total estimated burden hours to complete the certification form is 600,000 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: April 22, 2015.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2015–09674 Filed 4–24–15; 8:45 am]

BILLING CODE 4410–12–P

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On April, 22, 2015, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Colorado in the lawsuit entitled *United States and State of Colorado* v. *Noble Energy, Inc.,* Civil Action No. 1:15–cv–00841.

The case concerns alleged violations of the Clean Air Act and provisions of Colorado's federally approved State Implementation Plan relating to emissions of volatile organic compounds (''VOC'') from condensate storage tanks that are, or were until recently, part of Noble's oil and natural gas production operations in the Denver-Julesburg Basin in Boulder, Broomfield, and Weld counties, Colorado, a non-attainment area for ground level ozone known as the ''8-hour Ozone Control Area.'' At issue are leaks of vapors from tanks storing hydrocarbon liquids known as ''pressurized liquids'' or ''condensate'' which are separated from natural gas near the wellhead. The settlement covers 3,472 tank batteries (referred to in the Consent Decree as ''Tank Systems'') which comprise all of Noble's condensate storage tanks in the nonattainment area equipped with Vapor Control Systems pursuant to Colorado Air Quality Control Regulation Number 7 to achieve required system-wide emission reductions. Under the terms of the Consent Decree Noble is required to determine the potential peak flow of vapors from each Tank System, conduct an engineering evaluation of the capacity of each Vapor Control System, undertake corrective actions as needed, and verify the adequacy of the corrective actions at all of the locations covered by the Decree. Noble will complete two Supplemental Environmental Projects (''SEPs'') at a cost of no less than $2 million. The first SEP, titled ''Pressurized Hydrocarbon Liquids and Analysis SEP,'' will involve a scientific study of the reliability, and ways to improve the reliability, of methods used to sample and analyze pressurized liquids/condensate at a cost of at least $1 million. A report of the study will be prepared and posted on Noble's Web site. The second SEP, titled ''Wood Burning Appliance Changeout SEP,'' will involve replacing or retrofitting inefficient, higher polluting wood-burning or coal appliances in the non-attainment area at a cost of at least $1 million. Noble will also spend at least $4.5 million to complete five environmental mitigation projects. Noble will pay a $4.95 million civil penalty to the United States and Colorado.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of Colorado* v. *Noble Energy, Inc.,* D.J. Ref. No. 90–5–2–1–10811. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

| *To submit comments:* | *Send them to:* |
|---|---|
| By e-mail ..... | *pubcomment-ees.enrd@usdoj.gov.* |
| By mail ..... | Assistant Attorney General, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611. |

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $39.75 (25 cents per page reproduction cost) payable to the United States Treasury for a copy of the Consent Decree without appendices. For a paper copy without the appendices, the cost is $22.00.

**Robert Brook,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2015–09665 Filed 4–24–15; 8:45 am]

BILLING CODE 4410–15–P

## DEPARTMENT OF JUSTICE

**[OMB Number 1125–NEW]**

### Agency Information Collection Activities; Proposed eCollection; eComments Requested; Evaluation of the Justice AmeriCorp Legal Services for Unaccompanied Children Program

**AGENCY:** Executive Office for Immigration Review, Department of Justice.

**ACTION:** 30-day notice.

**SUMMARY:** The Department of Justice (DOJ), Executive Office for Immigration Review, 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 80 FR 29, pages 7879–7880, February 12, 2015, allowing for a 60-day comment period.

**DATES:** Comments are encouraged and will be accepted for an additional 30 days until May 27, 2015.

**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 Jean King, Acting General Counsel, Executive Office for Immigration Review, U.S. Department of Justice, Suite 2600, 5107 Leesburg Pike, Falls Church, Virginia 20530; telephone: (703) 305–0470. 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_submissions@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/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:* New Voluntary Collection.

2. *The Title of the Form/Collection:* Evaluation of the justice AmeriCorp Legal Services for Unaccompanied Children Program.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The applicable component within the Department of Justice is the Office of Legal Access Programs, Executive Office for Immigration Review.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* This information collection is part of the Evaluation of the justice AmericCorp (jAC) Leal Services for Unaccompanied Children Program (''Program''), and is funded by the Executive Office for Immigration Review (EOIR), U.S. Department of Justice (DOJ), in cooperation with the Corporation for National and Community Services (CNCS). The Program is intended to provide legal services to children under the age of 16 who: (1) Are not in the custody of the Office of Refugee Resettlement or the Department of Homeland Security, *i.e.* have been released to sponsors (who are sometimes parents or guardians) in the community; (2) have received a Notice to Appear in removal proceedings before EOIR; and, (3) have not had their cases consolidated with removal proceedings with a parent or legal guardian. The Program anticipates being able to provide services to 3,000 children in the first year, and 5,000 children annually every year thereafter. The information collection will be administered by the Vera Center on Immigration and Justice to provide performance measurement and evaluation services that will contribute to the efficiency and effectiveness of the Program, to address implementation challenges, to inform and improve program design, to modify program operations and direction, and to contribute to greater accountability and transparency. The Program will use four data collection methods: (1) Performance measurement data entered by jAC member organizations in a secure web-based server for the purpose of semi-annual reporting to DOJ; (2) qualitative interviews of jAC program managers and selected DOJ employees (*e.g.* immigration judges and court administrators) conducted by telephone and in person during site visits for the purpose of implementation evaluation; (3) qualitative interviews with a small sample of unaccompanied children, who are provided with legal representation by the jAC program to document their understanding of immigration proceedings as a result of participation in the program; and (4) a brief, non-identifiable survey of jAC members (staff attorneys) at the end of their terms of service to determine their satisfaction with participation in the program.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 100 jAC members will take part in the survey annually. Based on similar surveys used by Vera to evaluate other programs, an average of 30 minutes per respondent is needed to complete the survey. The estimated range of burden for jAC members is expected to be between 15 minutes to 45 minutes for completion. An estimated 50 children will take part in the interview annually. The interview for assessing the child's understanding of immigration proceedings is estimated to take 1 hour per respondent to complete. The estimated range of burden for children interviewed is expected to be between 30 minutes and 1.5 hours for completion. The factors considered when creating the burden estimate were the young age of the children (between the ages of 12 and 16) and the fact that the interview would be conducted in-person. An estimated 200 jAC program stakeholders will take part in the interview annually. Based on similar interviews used by Vera to evaluate other programs, an average of 75 minutes per respondent is needed to complete the interview. The estimated range of burden for jAC program stakeholders is expected to be between 45 minutes to 1.5 hours for completion.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 350 hours. It is estimated that 100 jAC members will take 30 minutes to complete the survey; 50 children will take 1 hour to complete the interview; and 200 jAC stakeholders 75 minutes to complete the interview. The burden hours for collecting respondent data sum to 350 hours ((100 jAC members × 30 minutes = 50 hours) + (50 children × 1 hour = 50 hours) + (200 jAC stakeholders × 75 minutes = 250 hours)).

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: April 22, 2015.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2015–09677 Filed 4–24–15; 8:45 am]

**BILLING CODE 4410–30–P**

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## DEPARTMENT OF JUSTICE

**[OMB Number 1110–NEW]**

## Agency Information Collection Activities; Proposed eCollection eComments Requested; Approval of a New Collection Request for Emergency or Term Access to National Security Information

**AGENCY:** Security Division, Federal Bureau of Investigation.

**ACTION:** 60-day notice.

**SUMMARY:** The Department of Justice (DOJ), Federal Bureau of lnvestigation (FBI), Security Division (SecD), will be submitting the following emergency information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The primary factor contributing to the need for this form is time. OPM's own research indicates that the average time needed to fill out an SF–86 is 150 minutes. This average is largely based on young military applicants who have limited work and travel experiences. When dealing with high ranking business leaders they will be older, have more life and work experiences, taking more time to locate more details and information. Further, it takes a

minimum of 120 days to process the full background. This does not include the time to transmit the form and any other administrative functions associated with the SF–86 process. In emergencies the information needs to be collected and processed quickly in order to facilitate the sharing of urgent and potentially time sensitive information.

This collocation requires emergency approval because waiting an additional 90 days for comment period will further extend the risk of attack or other emergency where information needs to be shared and cannot due to the long process currently in place to clear un-cleared personnel. Once approves, the FBI will have the capability to issue temporary clearances to individuals with the immediate need. Emergency approval is requested by May 15, 2015. The proposed information collection is published to obtain comments from the public and affected agencies.

**DATES:** Comments are encouraged and will be accepted for 60 days until June 26, 2015.

**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 Jamie B. Benn, Management and Program Analyst, FBI, Security Division, Executive Staff Unit, 935 Pennsylvania Ave. NW., Washington, DC 20535 (facsimile: 202–651–4047).

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Approval of a new collection.

(2) *Title of the Form/Collection:* Request for Emergency or Term Access to National Security Information.

(3) *Agency form number:* FD–1116.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: This form is utilized by the FBI to collect information in order to initiate a background investigation before granting access to classified and sensitive information to private sector people.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 500 respondents will complete each form within approximately 10 minutes *for an average respondent to respond:* It is estimated that 500 respondents will complete each form within approximately 10 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 83 total annual burden hours associated with this collection.

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: April 22, 2015.

**Jerri Murray,**

*Department Clearance Officer, U.S. Department of Justice.*

[FR Doc. 2015–09675 Filed 4–24–15; 8:45 am]

BILLING CODE 4410–02–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–85,712; TA–W–85,712A]**

### Turbomeca Manufacturing, LLC a Division of Safran Including On-Site Leased Workers From Weiser Security Services, Inc., MSC Industrial Supply Co., and Cavalier Monroe, North Carolina and Labinal Power Systems Working On-Site at Turbomeca Manufacturing, LLC Monroe, North Carolina; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 15, 2015, applicable to workers of Turbomeca Manufacturing, LLC, a division of Safran, including on-site leased workers from Weiser Security Services, Inc., MSC Industrial Supply Co., and Cavalier, Monroe, North Carolina. The Department's Notice of Determination was published in the **Federal Register** on February 18, 2015 (80 FR 8692).

At the request of the company official, the Department reviewed the certification for workers of the subject firm. The firm is engaged in activities related to the production of precision machine components for helicopter engines and aircraft. The company confirmed that workers from Labinal Power Systems worked on-site at Turbomeca Manufacturing, LLC and were affected by the same shift in production that was the basis for certification.

The amended notice applicable to TA–W–85,712 is hereby issued as follows:

All workers of Turbomeca Manufacturing, LLC, a division of Safran, including on-site leased workers from Weiser Security Services, Inc., MSC Industrial Supply Co., and Cavalier, Monroe, North Carolina (TA–W–85,712) and Labinal Power Systems working on-site at Turbomeca Manufacturing, LLC, Monroe, North Carolina (TA–W–85,712A) who became totally or partially separated from employment on or after December 10, 2013 through January 15, 2017, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 6th day of April, 2015.

**Michael W. Jaffe,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

[FR Doc. 2015–09658 Filed 4–24–15; 8:45 am]

BILLING CODE 4510–FN–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–85,642]**

### Metlife Group, Inc., EI&A Service Management Group, Clarks Summit, Pennsylvania; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated January 28, 2015 a worker requested requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for worker

adjustment assistance applicable to workers and former workers of Metlife Group, Inc., EI&A Service Management Group, Clarks Summit, Pennsylvania. The determination was issued on December 22, 2014 and the Notice of Determination was published in the **Federal Register** on January 23, 2015 (80 FR 3655).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The initial investigation resulted in a negative determination based on the findings that subject firm does not produce an article within the meaning of Section 222(a) or Section 222(b) of the Trade Act of 1074, as amended.

The request for reconsideration asserts that the subject worker group designed, built and maintained data models.

The Department of Labor has carefully reviewed the request for reconsideration and the existing record, and has determined that the Department will conduct further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974.

**Conclusion**

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 26th day of March, 2015.

**Michael W. Jaffe,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

[FR Doc. 2015–09655 Filed 4–24–15; 8:45 am]

**BILLING CODE 4510–FN–P**

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## DEPARTMENT OF LABOR

### Employment and Training Administration

### Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 7, 2015.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 7, 2015.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 20th day of April 2015.

**Michael W. Jaffe,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

APPENDIX

[30 TAA petitions instituted between 3/30/15 and 4/10/15]

| TA–W | Subject firm (petitioners) | Location | Date of institution | Date of petition |
|---|---|---|---|---|
| 85908 | Pemco Mutual Insurance Company (Workers) | Seattle, WA | 03/30/15 | 03/27/15 |
| 85909 | Lear Corporation (State/One-Stop) | Rochester Hills, MI | 03/30/15 | 03/27/15 |
| 85910A | Leased Workers from Aerotek (State/One-Stop) | Lake City, MN | 03/30/15 | 03/27/15 |
| 85910 | Federal Mogul Powertrain (State/One-Stop) | Lake City, MN | 03/30/15 | 03/27/15 |
| 85911 | Teleflex/Arrow International (Company) | Ramseur & Asheboro, NC | 03/30/15 | 03/27/15 |
| 85912 | Ormco Corporation (State/One-Stop) | Glendora, CA | 03/30/15 | 03/27/15 |
| 85913 | Mic Group—Duncan (Workers) | Duncan, OK | 03/31/15 | 03/30/15 |
| 85914 | Eureka Pellet Mills (Workers) | Eureka, MT | 03/31/15 | 03/26/15 |
| 85915 | Pfizer Inc. (State/One-Stop) | Groto, CT | 03/31/15 | 03/27/15 |
| 85916 | Saint Louis Post Dispatch (State/One-Stop) | Saint Louis, MO | 04/01/15 | 03/30/15 |
| 85917 | CP Medical Inc. (State/One-Stop) | Portland, OR | 04/01/15 | 03/31/15 |
| 85918 | Interactive Data Corporation (Workers) | Bedford, MA | 04/01/15 | 03/18/15 |
| 85919 | Republic Steel (Union) | Lorain, OH | 04/01/15 | 03/31/15 |
| 85920 | US Steel (Union) | East Chicago, IN | 04/01/15 | 03/31/15 |
| 85921 | Avaya (Union) | Highlands Ranch, CO | 04/02/15 | 04/01/15 |
| 85922 | Chromalloy Gas Turbine—Los Angeles Facility (Company) | Gardena, CA | 04/03/15 | 04/02/15 |
| 85923 | Oerlikon Fairfield (Union) | Lafayette, IN | 04/06/15 | 03/31/15 |
| 85924 | AstraZeneca LP (Company) | Westborough, MA | 04/06/15 | 03/31/15 |
| 85925 | Bimbo Bakeries (State/One-Stop) | Fullerton, CA | 04/06/15 | 04/03/15 |
| 85926 | KIK Custom Products, Inc. (Company) | Memphis, TN | 04/07/15 | 04/07/15 |
| 85927 | Graham Packaging Plastic Co. LP (State/One-Stop) | Chicago, IL | 04/07/15 | 04/06/15 |
| 85928 | Dover Norris Company (Workers) | Tulsa, OK | 04/08/15 | 04/07/15 |
| 85929 | IBM (State/One-Stop) | Endicott, NY | 04/08/15 | 04/07/15 |
| 85930 | Teva Pharmaceuticals (Workers) | Kulztown, PA | 04/08/15 | 04/07/15 |
| 85931 | Mage Solar USA (Workers) | Dublin, GA | 04/09/15 | 03/30/15 |
| 85932 | Fab Industries Corp (Company) | Lincolnton, NC | 04/09/15 | 04/08/15 |

APPENDIX—Continued

[30 TAA petitions instituted between 3/30/15 and 4/10/15]

| TA–W | Subject firm (petitioners) | Location | Date of institution | Date of petition |
|---|---|---|---|---|
| 85933 | Lorain Northern Railroad (Union) | Lorain, OH | 04/09/15 | 04/08/15 |
| 85934 | Emerson Process Management LLP (State/One-Stop) | Knoxville, TN | 04/10/15 | 04/09/15 |
| 85935 | Leach International North America/Esterline Corporation (State/One-Stop). | Buena Park, CA | 04/10/15 | 04/09/15 |
| 85936 | Total Safety Inc. (Workers) | Decatur, AL | 04/10/15 | 04/09/15 |

[FR Doc. 2015–09660 Filed 4–24–15; 8:45 am]

BILLING CODE 4510–FN–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–83,367]**

### Pixel Playground, Inc. Woodland Hills, California; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated January 26, 2015 a worker requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for worker adjustment assistance applicable to workers and former workers of Pixel Playground, Inc., Woodland Hills, California. The determination was issued on December 9, 2014 and the Notice of Determination was published in the **Federal Register** on September 29, 2014 (79 FR 58383).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The initial investigation resulted in a negative determination based on the findings that the firm did not shift the supply of services to a foreign country, that imports of like or directly competitive services did not increase, and that the firm was not a Supplier or Downstream Producer.

The request for reconsideration asserts that workers of Pixel Playground, Inc. were impacted by international competition and increased imports. The request for reconsideration also asserts that the worker group served as a subcontractor supplier to a TAA-certified firm.

The Department of Labor has carefully reviewed the request for reconsideration and the existing record, and has determined that the Department will conduct further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974.

### Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 26th day of March, 2015.

**Michael W. Jaffe,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

[FR Doc. 2015–09654 Filed 4–24–15; 8:45 am]

BILLING CODE 4510–FN–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–83,044]**

### Spirit Aerosystems, Inc., Including On-Site Leased Workers From Logistics Resources, Inc., Adecco, LSI Staffing, Zero Chaos, Apollo, Butler, CTS, Foster Design, Hi-Tek Professionals, Johnson Services Group, Mindlance, Moten Tate, Inc., Manpower, PDS Technical Services, Spencer Reed Group, Strom Aviation, Systemart, Total Technical Services, Vayu, Inc., and Volt Technical Resources Wichita, Kansas; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 18, 2013, applicable to leased workers from Logistics Resources, Inc., Adecco, LSI Staffing, Zero Chaos, Apollo, Butler, CTS, Foster Design, Hi-Tek Professionals, Johnson Services Group, Mindlance, Moten Tate, Inc., Manpower, PDS Technical Services, Spencer Reed Group, Strom Aviation, Systemart, Total Technical Services, Vayu, Inc., and Volt Technical Resources, working on-site at Spirit Aerosystems, Inc., Wichita, Kansas. The Department's Notice of Determination was published in the **Federal Register** on November 6, 2013 (79 FR 32328).

At the request of a State Workforce Official, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of aero-structures.

The investigation confirmed that workers leased from Logistics Resources, Inc., Adecco and LSI Staffing were employed on-site at Spirit Aerosystems, Inc., Wichita, Kansas. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Logistics Resources, Inc., Adecco and LSI Staffing, working on-site at the Wichita, Kansas location of Spirit Aerosystems, Inc.

The amended notice applicable to TA–W–83,044 is hereby issued as follows:

''All workers of Spirit Aerosystems, Inc., including on-site leased workers from Logistics Resources, Inc., Adecco, LSI Staffing, Zero Chaos, Apollo, Butler, CTS, Foster Design, Hi-Tek Professionals, Johnson Services Group, Mindlance, Moten Tate, Inc., Manpower, PDS Technical Services, Spencer Reed Group, Strom Aviation, Systemart, Total Technical Services, Vayu, Inc., and Volt Technical Resources, Wichita, Kansas, (TA–W–83,044) who became totally or partially separated from employment on or after August 29, 2012, through October 18, 2015, and all workers in the group threatened with total or partial separation from the date of certification through October 18, 2015, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.''

Signed in Washington, DC, this 31st day of March, 2015.

**Michael W. Jaffe,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

[FR Doc. 2015–09652 Filed 4–24–15; 8:45 am]

**BILLING CODE 4510–FN–P**

## U.S. DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–85,689]**

### Honeywell Aerospace, a Subsidiary of Honeywell International, Moorestown, New Jersey; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated March 12, 2015, a company official requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for alternative trade adjustment assistance applicable to workers and former workers of Honeywell Aerospace, a subsidiary of Honeywell International, Moorestown, New Jersey. The determination was issued on December 30, 2014. The Notice of Determination was published in the **Federal Register** on January 23, 2015 (80 FR 3656). The Notice of Determination was mistakenly classified in the **Federal Register** under the ''Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance'' header. It should have been recorded under the ''Affirmative Determinations for Worker Adjustment Assistance'' and the ''Negative Determinations for Alternative Trade Adjustment Assistance'' sections.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The initial investigation resulted in a negative determination for alternative trade adjustment assistance based on a finding that the workers possessed skills that were easily transferable.

The request for reconsideration asserts that the workers possessed skills that were not easily transferable.

The Department of Labor has carefully reviewed the request for reconsideration and the existing record, and has determined that the Department will conduct further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974.

### Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 26th day of March, 2015.

**Michael W. Jaffe,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

[FR Doc. 2015–09656 Filed 4–24–15; 8:45 am]

**BILLING CODE 4510–FN–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–83,129; TA–W–83,129A]**

### International Paper Company, Courtland Alabama Paper Mill, Printing & Communications Papers Division, a Subsidiary of International Paper Company, Including On-Site Leased Workers From Manpower, Western Express, Liberty Healthcare, and K2 Mansfield, Courtland, Alabama; International Paper Company Customer Service Center, Printing & Communication Papers Division, a Subsidiary of International Paper Company Suffolk, Virginia; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 6, 2014, applicable to workers of International Paper Company, Cortland Alabama Paper Mill, Printing & Communications Paper Division, a subsidiary of International Paper Company, including on-site leased workers from Manpower, Western Express, Liberty Healthcare, and K2 Mansfield, Cortland, Alabama (TA–W–83,129). The Department's notice of determination was published in the **Federal Register** on February 24, 2014 (79 FR 10189).

Following the filing of a petition on behalf of workers of International Paper Company, Customer Service Center, Printing & Communication Paper Division, Suffolk, Virginia (TA–W–85,745), the Department reviewed the certification for workers of the subject firm. The investigation revealed that workers from at the Customer Service Center, Printing & Communication Paper Division, Suffolk, Virginia, were in support of the production facility in Cortland, Alabama.

The amended notice applicable to TA–W–83,129 is hereby issued as follows:

''All workers of International Paper Company, Cortland Alabama Paper Mill, Printing & Communications Paper Division, a subsidiary of International Paper Company, including on-site leased workers from Manpower, Western Express, Liberty Healthcare, and K2 Mansfield, Cortland, Alabama (TA–W–83,129) and International Paper Company, Customer Service Center, Printing & Communication Paper Division, a subsidiary of International Paper Company, Suffolk, Virginia (TA–W–83,129A) who became totally or partially separated from employment on or after October 10, 2012 through February 6, 2016, and all workers in the group threatened with total or partial separation from employment on February 6, 2014 through February 6, 2016, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.''

Signed in Washington, DC, this 31st day of March, 2015.

**Del Min Amy Chen,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

[FR Doc. 2015–09653 Filed 4–24–15; 8:45 am]

**BILLING CODE 4510–FN–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–82,778A]**

### Energizer; One Worker Reporting to the Westlake Facility Located in Marietta, Ohio; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 25, 2013, applicable to workers from Energizer, including on-site leased workers from Adecco, Westlake, Ohio. The Department's Notice of Determination was published in the **Federal Register** on August 13, 2013 (78 FR 49293).

At the request of a State Workforce Official, the Department reviewed the certification for workers of the subject

firm. The workers' firm is engaged in the production of batteries.

The investigation confirmed that one worker in the Marietta, Ohio facility reports to the Westlake, Ohio facility. Her total or partial separation or threat of total or partial separation is attributable to the same shift in production to a foreign country that was the basis for the original certification.

Based on these findings, the Department is amending this certification to include one worker reporting to the Westlake facility located in Marietta, Ohio.

The amended notice applicable to TA–W–82,778 is hereby issued as follows:

''All workers of Energizer, including on-site leased workers from Adecco, Westlake, Ohio (TA–W–82,778) and Energizer, One worker reporting to the Westlake facility located in Marietta, Ohio (TA–W–82,778A) who became totally or partially separated from employment on or after June 3, 2012 through July 25, 2015, and all workers in the group threatened with total or partial separation from employment on the date of certification through July 25, 2015, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.''

Signed in Washington, DC, this 15th day of April, 2015.

**Michael W. Jaffe,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

[FR Doc. 2015–09657 Filed 4–24–15; 8:45 am]

BILLING CODE 4510–FN–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of *March 30, 2015 through April 10, 2015.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. the sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. there has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. the country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. the country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (*i.e.,* conditions within the industry are adverse).

#### Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

*None.*

#### Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

*85,836, Waukesha Bearings Corporation, West Greenwish, Rhode Island. February 13, 2014.*

*85,839, Camtec, Cambridge, Maryland. April 10, 2015.*

*85,846, U.S. Steel Oilwell Services LLC., Hughes Springs, Texas. February 20, 2014.*

*85,850, Teleflex, Inc., Menlo Park, California. February 23, 2014.*

*85,862, Apex Tool Group, LLC., Springdale, Arkansas, April 9, 2015.*
*85,867, Day & Zimmermann, Inc., Parsons, Kansas. March 6, 2014.*
*85,868, Honeywell International, Cranston, Rhode Island. March 10, 2014.*
*85,874, Central Missouri Plastics, Lee's Summit, Missouri. March 9, 2014.*
*85,890, AIP BI Holdings dba Brooks Instrument, Hatfield, Pennsylvania. March 19, 2014.*
*85,893, Everett Charles Technology LLC, Clifton Park, New York. March 23, 2014.*
*85,910, Federal Mogul Powertrain, Lake City, Minnesota. February 1, 2015.*
*85,910A, Leased Workers from Aerotek, Lake City, Minnesota. March 27, 2014.*
*85,912, Ormco Corporation, Glendora, California. March 27, 2014.*

**Negative Determinations for Alternative Trade Adjustment Assistance**

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

*None.*

**Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance**

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*85,772, Bank of America, Dallas. Texas.*
*85,812, Deluxe 3D LLC., Burbank, California.*
*85,825, OxyHeal Health Group, Inc., Camp Lejeune, North Carolina.*
*85,834, Mondelez International, Wilkes Barre, Pennsylvania.*
*85,838, Bethany Christian Services, Holland, Michigan.*
*85,849, Zemco Industries, Inc., Buffalo, New York.*
*85,869, ProTeam, Inc., Boise, Idaho.*
*85,880, Stewart Title Guaranty Company, Houston, Texas.*
*85,918, Interactive Data Corporation, Bedford, Massachusetts.*

**Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance**

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

*85,668, Pamco Machine Company, Lewiston, Maine.*
*85,855, Browns Plating Service, Inc., Paducah, Kentucky.*

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

*85,745, International Paper Company, Suffolk, Virginia.*
*85,774, Logistics Resources, Inc., Wichita, Kansas.*

I hereby certify that the aforementioned determinations were issued during the period of *March 30, 2015 through April 10, 2015.* These determinations are available on the Department's Web site *www.tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 20th day of April 2015.

**Michael W. Jaffe,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

[FR Doc. 2015–09661 Filed 4–24–15; 8:45 am]

BILLING CODE 4510–FN–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 7, 2015.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 7, 2015.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 31st day of March 2015.

**Michael W. Jaffe,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

APPENDIX

[16 TAA petitions instituted between 3/23/15 and 3/27/15]

| TA–W | Subject firm (Petitioners) | Location | Date of institution | Date of petition |
|---|---|---|---|---|
| 85892 | Dana Holding Company (State/One-Stop) | Robinson, IL | 03/23/15 | 03/20/15 |
| 85893 | Everett Charles Technology, LLC (Company) | Clifton Park, NY | 03/24/15 | 03/23/15 |
| 85894 | Nordson Micromedics, Inc. (Company) | St. Paul, MN | 03/24/15 | 03/23/15 |
| 85895 | General Super Plating (Union) | Syracuse, NY | 03/24/15 | 03/23/15 |

APPENDIX—Continued

[16 TAA petitions instituted between 3/23/15 and 3/27/15]

| TA–W | Subject firm (Petitioners) | Location | Date of institution | Date of petition |
|---|---|---|---|---|
| 85896 | Minntac (State/One-Stop) | Mt. Iron, MN | 03/24/15 | 03/23/15 |
| 85897 | American Cotton Growers LLC (State/One-Stop) | Littlefield, TX | 03/24/15 | 03/23/15 |
| 85898 | Siemens Energy Inc. (Union) | Mount Vernon, OH | 03/25/15 | 03/19/15 |
| 85899 | Smiths Connectors (State/One-Stop) | Costa Mesa & Irvine, CA | 03/25/15 | 03/24/15 |
| 85900 | Fort Dearborn Company (Company) | Bowling Green, KY | 03/26/15 | 03/25/15 |
| 85901 | United States Steel—Granite City Works (State/One-Stop) | Granite City, IL | 03/26/15 | 03/25/15 |
| 85902 | Surgical Specialties of Puerto Rico (State/One-Stop) | Aguadilla, PR | 03/26/15 | 03/25/15 |
| 85903 | Verizon Communications Inc. (Workers) | Richardson, TX | 03/26/15 | 03/25/15 |
| 85904 | Maverick Tube Corporation b/b/a Tenaris Texas Arai (State/One-Stop). | Houston, TX | 03/26/15 | 03/25/15 |
| 85905 | Hampton Products International Corporation (Workers) | Shell Lake, WI | 03/26/15 | 03/16/15 |
| 85906 | Finisar Corporation (Company) | Horsham, PA | 03/27/15 | 03/26/15 |

[FR Doc. 2015–09651 Filed 4–24–15; 8:45 am]

BILLING CODE 4510–FN–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–85,808]**

### Jones Apparel US LLC, Lawrenceburg, Tennessee; Notice of Negative Determination Regarding Application for Reconsideration

By application dated March 10, 2015, workers requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance, applicable to workers and former workers of Jones Apparel US LLC, Lawrenceburg, Tennessee. The denial notice was signed on February 12, 2015, and the Notice of Determination was published in the **Federal Register** on March 18, 2015 (80 FR 14166).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The negative determination of the TAA petition filed on behalf of workers at Jones Apparel US LLC, Lawrenceburg, Tennessee was based on the firm not producing an article within the meaning of Section 222(a) or Section 222(b) of the Act. In order to be considered eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, the worker group seeking certification (or on whose behalf certification is being sought) must work for a ''firm'' or appropriate subdivision that produces an article. The definition of a firm includes an individual proprietorship, partnership, joint venture, association, corporation (including a development corporation), business trust, cooperative, trustee in bankruptcy, and receiver under decree of any court.

In the request for reconsideration the petitioner, the petitioner did not supply facts not previously considered; nor provide additional documentation indicating that there was either (1) a mistake in the determination of facts not previously considered or (2) a misinterpretation of facts or of the law justifying reconsideration of the initial determination. Based on these findings, the Department determines that 29 CFR 90.18(c) has not been met.

The original investigation confirmed that the workers' firm did not produce an article. Rather, the workers' firm supplied services related to the supply of warehousing, distribution, quality control, and retail services. The investigation confirmed that production of the firm's apparel product lines occurs outside of the United States.

### Conclusion

After careful review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC, this 14th day of April, 2015.

**Michael W. Jaffe,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

[FR Doc. 2015–09659 Filed 4–24–15; 8:45 am]

BILLING CODE 4510–FN–P

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. OSHA–2011–0858]**

### Permit-Required Confined Spaces; Extension of the Office of Management and Budget's (OMB) Approval of Collection of Information (Paperwork) Requirements

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

**ACTION:** Request for public comments.

**SUMMARY:** OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the collection of information requirements contained in the Standard on Permit-Required Confined Spaces (29 CFR 1910.146).

**DATES:** Comments must be submitted (postmarked, sent, or received) by June 26, 2015.

**ADDRESSES:**

*Electronically:* You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

*Facsimile:* If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

*Mail, hand delivery, express mail, messenger, or courier service:* When

using this method, you must submit your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2011–0858, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

*Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2011–0858) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

*Docket:* To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You also may contact Theda Kenney at the address below to obtain a copy of the ICR.

**FOR FURTHER INFORMATION CONTACT:** Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

**SUPPLEMENTARY INFORMATION:**

## I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing collection of information requirements in accord with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The purpose of the collection of information requirements specified in the Permit-Required Confined Spaces Standard is to ensure that employers systematically evaluate the dangers in permit spaces before entry is attempted, and to ensure that adequate measures are taken to make the spaces safe for entry. Section 1910.146(c)(2) requires the employer to post danger signs to inform exposed employees of the existence and location of, and the dangers posed by, permit spaces.

Section 1910.146(c)(4) requires the employer to develop and implement a written ''permit-space program'' when the employer decides that its employees will enter permit spaces. The written program is to be made available for inspection by employees and their authorized representatives. Section 1910.146(d) provides the employer with the requirements of a permit-required confined space program.

Section 1910.146(c)(5)(i)(E) requires that the determinations and supporting data specified by paragraphs (c)(5)(i)(A), (c)(5)(i)(B), and (c)(5)(i)(C) of this section are documented by the employer and are made available to each employee who enters a permit space or to that employee's authorized representative.

Under paragraph (c)(5)(ii)(H) of § 1910.146, the employer is required to verify that the space is safe for entry and that the pre-entry measures required by paragraph (c)(5)(ii) of this section have been taken, using a written certification that contains the date, the location of the space, and the signature of the person providing the certification. The certification is to be made before entry and is required to be made available to each employee entering the space or to that employee's authorized representative.

Section 1910.146(c)(7)(iii) requires the employer to document the basis for determining that all hazards in a permit space have been eliminated using a certification that contains the date, the location of the space, and the signature of the person making the determination. The certification is to be made available to each employee entering the space or to that employee's authorized representative.

Section 1910.146(c)(8)(i) requires that the employer inform the contractor that the workplace contains permit spaces and that permit space entry is allowed only through compliance with a permit space program meeting the requirements of this section. Section 1910.146(c)(8)(ii) requires that the employer apprise the contractor of the elements, including the hazards identified and the host employer's experience with the space, that make the space in question a permit space. Section 1910.146(c)(8)(iii) requires that the employer apprise the contractor of any precautions or procedures that the host employer has implemented for the protection of employees in or near permit spaces where contractor personnel will be working. Section 1910.146(c)(8)(v) requires the employer to debrief the contractor at the conclusion of the entry operations regarding the permit space program followed and regarding any hazards confronted or created in permit spaces during entry operations.

Section 1910.146(c)(9)(iii) requires that the contractor inform the host employer of the permit space program that the contractor will follow and of any hazards confronted or created in permit spaces, either through a debriefing or during the entry operation.

Section 1910.146(d)(5)(vi) requires the employer to immediately provide each authorized entrant or that employee's authorized representative with the results of any testing conducted in accord with paragraph (d) of the Standard.

Section 1910.146(d)(14) requires employers to review the permit space program, using the canceled permits retained under paragraph (e)(6) within 1 year after each entry and revise the program as necessary, to ensure that employees participating in entry operations are protected from permit space hazards.

Section 1910.146(e)(1) requires the employer to document the completion of measures required by paragraph (d)(3) by preparing an entry permit before employee entry is authorized. Paragraph (f) of § 1910.146 specifies the information to be included on the entry permit. Paragraph (e)(3) requires that the employer make the completed permit available at the time of entry to all authorized entrants by posting the permit at the entry portal or by any

other equally effective means, so that the entrants can confirm that pre-entry preparations have been completed. Paragraph (e)(6) requires the employer to retain each canceled entry permit for at least one year; any problems encountered during an entry operation must be noted on the pertinent permit so that revisions to the permit space program can be made.

Section 1910.146(g)(4) requires that the employer certify that the training required by paragraphs (g)(1) through (g)(3) has been accomplished by preparing a written certification record.

Section 1910.146(h)(3) requires the employer to ensure that all authorized entrants communicate with the attendant as necessary to enable the attendant to monitor entrant status and to enable the attendant to alert entrants of the need to evacuate the space as required by paragraph (l)(6) of the Standard. Section 1910.146(h)(4) requires the employer to ensure that all authorized entrants alert the attendant whenever the entrant recognizes any warning sign or symptom of exposure to a dangerous situation (paragraph ((h)(4)(i)), or the entrant detects a prohibited condition (paragraph (h)(4)(ii)).

Section 1910.146(i)(5) requires the employer to ensure that each attendant communicate with authorized entrants as necessary to monitor entrant status and to alert entrants of the need to evacuate the space under the conditions specified in paragraphs (i)(6)(i)–(i)(6)(iv) of the Standard. Section 1910.146(i)(7) requires the employer to ensure that the attendant summon rescue and other emergency services as soon as the attendant determines that authorized entrants may need assistance to escape from permit space hazards. Section 1910.146(i)(8) requires that the employer ensure that the attendant warn unauthorized persons that they must stay away from the permit space (paragraph (i)(8)(i)); advise unauthorized persons that they must exit immediately if they have entered the permit space (paragraph (i)(8)(ii)); and inform authorized entrants and the entry supervisor if unauthorized persons have entered the permit space (paragraph (i)(8)(iii)).

Section 1910.146(j)(2) requires the employer to ensure that each entry supervisor verifies, by checking that the appropriate entries have been made on the permit, that all tests specified by the permit have been conducted and that all procedures and equipment specified by the permit are in place before endorsing the permit and allowing entry to begin.

Section 1910.146(k)(1)(i) requires the employer to evaluate a prospective rescuer's ability to respond to a rescue summons in a timely manner, considering the hazard(s) identified; Section 1910.146(k)(1)(ii) requires the employer to evaluate a prospective rescue service's ability, in terms of proficiency with rescue-related tasks and equipment, to function appropriately while rescuing entrants from the particular permit space or types of permit spaces identified. Section 1910.146(k)(1)(iv) requires that the employer inform each rescue team or service of the hazards they may confront when called on to perform rescue at the site. Section 1910.146(k)(1)(v) requires that the employer provide the rescue team or service selected with access to all permit spaces from which rescue may be necessary so that the rescue service can develop appropriate rescue plans.

Section 1910.146(k)(4) requires that if an injured entrant is exposed to a substance for which a ''Material Safety Data Sheet'' (MSDS) [now referred to as an SDS (Safety Data Sheet)] or other similar written information is required to be kept at the worksite, that the employer make the MSDS or written information available to the medical facility treating the exposed entrant.

Section 1910.146(l)(1) requires that employers consult with affected employees and their authorized representatives on the development and implementation of all aspects of the permit space program required by paragraph (c). Section 1910.146(l)(2) requires that employers make all information required to be developed by this section available to affected employees and their authorized representatives.

## II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed collection of information requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the collection of information requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

## III. Proposed Actions

The Agency is requesting an adjustment increase of 78,602 burden hours (from 1,433,443 to 1,512,045 burden hours). The Agency's estimates, based on updated data, that the number of establishments and workers affected by the Standard have decreased; however, this reduction is partially off-set by the inclusion of burden hours and costs associated with the newly-identified collection of information requirement related to annual review of the written permit space entry program and cancelled permits.

*Type of Review:* Extension of a currently approved collection.

*Title:* Permit-Required Confined Spaces (29 CFR 1910.146).

*OMB Number:* 1218–0203.

*Affected Public:* Business or other for-profits.

*Number of Respondents:* 1,303,846.

*Frequency of Response:* On occasion.

*Total Responses:* 7,977,651.

*Average Time per Response:* Varies from one minute (.02 hour) to maintain a certificate to 16 hours to develop a written permit-space entry program.

*Estimated Total Burden Hours:* 1,512,045.

*Estimated Cost (Operation and Maintenance):* $0.

## IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile; or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for this ICR (Docket No. OSHA–2011–0858). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://*

*www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as their social security number and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available from the Web site, and for assistance in using the Internet to locate docket submissions.

## V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on April 22, 2015.

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2015–09698 Filed 4–24–15; 8:45 am]

**BILLING CODE 4510–26–P**

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. OSHA–2009–0014]**

### Hazard Communication Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

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

**ACTION:** Request for public comments.

**SUMMARY:** OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Hazard Communication Standard (29 CFR 1910.1200; 1915.1200; 1917.28; 1918.90; 1926.59; and 1928.21).

**DATES:** Comments must be submitted (postmarked, sent, or received) by June 26, 2015.

**ADDRESSES:**

*Electronically:* You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

*Facsimile:* If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

*Mail, hand delivery, express mail, messenger, or courier service:* When using this method, you must submit your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2009–0014, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

*Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2009–0014) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

*Docket:* To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You also may contact Theda Kenney at the address below to obtain a copy of the ICR.

**FOR FURTHER INFORMATION CONTACT:** Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

**SUPPLEMENTARY INFORMATION:**

## I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The information collection requirements in the Hazard Communication Standard ensure that the hazards of chemicals produced or imported are evaluated, and that information concerning these hazards is transmitted to downstream employers and their workers. The Hazard Communication Standard requires chemical manufacturers and importers to evaluate chemicals they produce or import to determine if they are hazardous; for those chemicals determined to be hazardous, they must develop safety data sheets and warning labels. Employers are required to establish hazard communication programs to transmit information on the hazards of chemicals to their workers by means of labels on containers, safety data sheets, and training programs.

Implementation of these collection of information requirements will ensure that workers understand the hazards and identities of the chemicals to which they are exposed; thereby, reducing the incidence of chemically-related occupational illnesses and injuries.

## II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the

Agency's functions, including whether the information is useful;

- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

## III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the Hazard Communication Standard (29 CFR 1910.1200; 1915.1200; 1917.28; 1918.90; 1926.59; and 1928.21). The Agency is requesting an adjustment decrease of 4,195,553 burden hours (from 10,689,248 hours to 6,493,695 hours). The burden hour decrease is primarily due to removing burden hours for employers completing revisions to their Safety Data Sheets and deleting time associated with employers becoming familiar with the Hazard Communication Standard. The Agency will summarize any comments submitted in response to this notice and will include this summary in the request to OMB.

*Type of Review:* Extension of a currently approved collection.

*Title:* Hazard Communication Standard (29 CFR 1910.1200; 1915.1200; 1917.28; 1918.90; 1926.59; and 1928.21).

*OMB Number:* 1218–0072.

*Affected Public:* Businesses or other for-profits.

*Number of Respondents:* 2,161,311.

*Frequency of Response:* On occasion.

*Total Responses:* 56,821,535.

*Average Time per Response:* Varies from 12 seconds for establishments to label an in-plant container to 8 hours for manufacturers or importers to conduct a hazard determination.

*Estimated Total Burden Hours:* 6,493,695.

*Estimated Cost (Operation and Maintenance):* $25,015,143.

## IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile; or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for this ICR (Docket No. OSHA–2009–0014). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled "**ADDRESSES**." The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as their social security number and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's "User Tips" link. Contact the OSHA Docket Office for information about materials not available from the Web site, and for assistance in using the Internet to locate docket submissions.

## V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on April 22, 2015.

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2015–09700 Filed 4–24–15; 8:45 am]

BILLING CODE 4510–26–P

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. OSHA–2011–0860]**

### The 13 Carcinogens Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

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

**ACTION:** Request for public comments.

**SUMMARY:** OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the 13 Carcinogens Standard (29 CFR 1910.1003).

**DATES:** Comments must be submitted (postmarked, sent, or received) by June 26, 2015.

**ADDRESSES:**

*Electronically:* You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

*Facsimile:* If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

*Mail, hand delivery, express mail, messenger, or courier service:* When using this method, you must submit your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2011–0860, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

*Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2011–0860) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

*Docket:* To read or download comments or other material in the

docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You also may contact Theda Kenney at the address below to obtain a copy of the ICR.

**FOR FURTHER INFORMATION CONTACT:** Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

**SUPPLEMENTARY INFORMATION:**

## I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The information collection requirements specified in the 13 Carcinogens Standard protect workers from the adverse health effects that may result from their exposure to the 13 carcinogens. The following is a brief description of the collection of information requirements contained in the 13 Carcinogens Standard: establishing and implementing a medical surveillance program for workers assigned to enter regulated areas; informing workers of their medical examination results; and providing workers with access to their medical records. Further, employers must retain worker medical records for specified time periods and make them available upon request to OSHA and NIOSH.

## II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

## III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the 13 Carcinogens Standard (29 CFR 1910.1003). The Agency is requesting an increase of 21 burden hours to 1,493 hours. The increase is a result of the increased number of establishments affected by the standard from 95 to 97. The Agency will summarize any comments submitted in response to this notice and will include this summary in the request to OMB.

*Type of Review:* Extension of a currently approved collection.

*Title:* 13 Carcinogens Standard (29 CFR 1910.1003).

*OMB Number:* 1218–0085.

*Affected Public:* Businesses or other for-profits.

*Number of Respondents:* 97.

*Frequency of Response:* On occasion; annually.

*Total Responses:* 2,195.

*Average Time per Response:* Time per response ranges from approximately 5 minutes (for employers to allow employee access to records) to 2 hours (for worker medical surveillance).

*Estimated Total Burden Hours:* 1,493.

*Estimated Cost (Operation and Maintenance):* $106,720.

## IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile; or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for this ICR (Docket No. OSHA–2011–0860). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as their social security number and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available from the Web site, and for assistance in using the Internet to locate docket submissions.

## V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on April 22, 2015.

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2015–09699 Filed 4–24–15; 8:45 am]

**BILLING CODE 4510–26–P**

## OFFICE OF MANAGEMENT AND BUDGET

### Request for Comments on FITARA Implementation Guidance

**AGENCY:** Office of Management and Budget (OMB).

**ACTION:** Notice.

**SUMMARY:** OMB's Office of E-Government & Information Technology (E-Gov) is seeking public comment on draft guidance to implement the Federal Information Technology Acquisition Reform Act (FITARA).

**DATES:** Interested parties may submit comments and feedback by the deadline listed on *management.cio.gov.*

**ADDRESSES:** Interested parties should provide comments at the following link: *management.cio.gov.*

**FOR FURTHER INFORMATION CONTACT:** Mr. Ben Sweezy, OMB at *egov@omb.eop.gov.*

**SUPPLEMENTARY INFORMATION:** The Federal Information Technology Acquisition Reform Act (FITARA) was enacted on December 19, 2014. FITARA outlines specific requirements related to:

1. Chief Information Officer (CIO) Authority Enhancements
2. Enhanced Transparency and Improved Risk Management in Information Technology Investments
3. Portfolio Review
4. Expansion of Training and Use of Information Technology Cadres
5. Federal Data Center Consolidation Initiative
6. Maximizing the Benefit of the Federal Strategic Sourcing Initiative
7. Government-wide Software Purchasing Program

To implement the requirements of FITARA, combined with the need to update policy and guidance related to other modern IT practices, OMB is establishing this guidance. This guidance reflects input from a diverse group of stakeholders, including representatives from the Chief Financial Officer (CFO), Chief Human Capital Officer (CHCO), Chief Acquisition Officer (CAO), Assistant Secretaries for Management (ASAM), and Chief Operating Officers (COOs) communities.

**Tony Scott,**

*Administrator, Office of Information Technology and E-Government.*

[FR Doc. 2015–09560 Filed 4–24–15; 8:45 am]

**BILLING CODE 3110–01–P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice: 15–030]**

### Notice of Information Collection

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of information collection.

**SUMMARY:** The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on the ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery'' for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*). This collection was developed as part of a Federal Government-wide effort to streamline the process for seeking feedback from the public on service delivery. This notice announces our intent to submit this collection to OMB for approval and solicits comments on specific aspects for the proposed information collection,

**DATES:** Consideration will be given to all comments received within 30 days after from the date of this publication.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503. Attention: Desk Officer for NASA.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Frances Teel, NASA PRA Clearance Officer, NASA Headquarters, 300 E Street SW., Mail Code JF0000, Washington, DC 20546 or *frances.c.teel@nasa.gov.*

*Title:* Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

*Abstract:* This notice reflects a revision to a currently approved information. NASA plans to engage more members of the public in small discussion groups, focus groups, usability testing, and qualitative customer feedback which will result in an increase in burden hours. The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

The Agency will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency;

• Information gathered will not be used for the purpose of substantially informing influential policy decisions; and

• Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

*Current Actions:* Revision of a currently approved collection.

*Type of Review:* Regular.

*Affected Public:* Individuals and Households, Businesses and Organizations, State, Local, or Tribal Government.

*Average Expected Annual Number of activities:* 1,720.

*Average number of Respondents per Activity:* Variable.

*Annual responses:* Variable.

*Frequency of Response:* Variable.

*Average minutes per response:* Variable.

*Burden hours:* 142,000.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's 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 through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments will be available for public inspection at: Regulations.gov.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

**Frances Teel,**

*NASA PRA Clearance Officer.*

[FR Doc. 2015–09613 Filed 4–24–15; 8:45 am]

**BILLING CODE 7510–13–P**

## NATIONAL CREDIT UNION ADMINISTRATION

### Sunshine Act: Notice of Agency Meeting

**TIME AND DATE:** 10:00 a.m., Thursday, April 30, 2015.

**PLACE:** Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

1. NCUA's Rules and Regulations, Associational Common Bonds.
2. NCUA's Rules and Regulations, Corporate Credit Unions, Technical Amendments.
3. NCUA's Rules and Regulations, Aggregate Lending Limit for Corporate Credit Unions.
4. NCUA's Rules and Regulations, Adding Share Insurance Coverage under IOLTA.
5. NCUA's Rules and Regulations, Exemption Request by State of Connecticut Department of Banking.
6. Board Briefing, Interagency Rule, Minimum Requirements for Appraisal Management Companies.
7. Share Insurance Fund Quarterly Report.

**FOR FURTHER INFORMATION CONTACT:** Gerard Poliquin, Secretary of the Board, Telephone: 703–518–6304.

**Gerard Poliquin,**

*Secretary of the Board.*

[FR Doc. 2015–09856 Filed 4–23–15; 4:15 pm]

**BILLING CODE 7535–01–P**

## NATIONAL SCIENCE FOUNDATION

### Proposal Review Panel for Behavioral and Cognitive Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub., L. 92–463 as amended), the National Science Foundation announces the following meeting:

*Name:* Proposal Review Panel for Behavioral and Cognitive Sciences—The Science of Learning Center (V151598) Temporal Dynamics of Learning Center (TDLC), University of California at San Diego Site Visit (#10747)

*Dates & Times:* May 20, 2015; 6:00 p.m.–10:00 p.m.; May 21, 2015; 7:30 a.m.–8:30 p.m.; May 22, 2015; 7:30 a.m.–4:00 p.m.

*Place:* University of California at San Diego, La Jolla, CA 92093.

*Type of Meeting:* Part Open.

*Contact Person:* Dr. Soo-Siang Lim, Program Director, Science of Learning Centers Program, Division of Behavioral and Cognitive Science, Room 995, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–7878.

*Purpose of Meeting:* To provide advice and recommendations concerning further support of the SLC program TDLC at the University of California at San Diego.

*Agenda:*

Wednesday, May 20, 2015.

6:00 p.m.–10:00 p.m. Closed—Briefing of panel

Thursday, May 21, 2015

7:30 a.m.–5:30 p.m. Open—Review of the MRSEC
5:30 p.m.–6:00 p.m. Closed—Executive Session
6:45 p.m.–8:30 p.m. Open—Dinner

Friday, May 22, 2015

7:30 a.m.–10:00 a.m. Closed—Executive Session
10:00 a.m.–4:00 p.m. Closed—Executive Session, Draft and Review Report

*Reason for Closing:* The work being reviewed during this site visit may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the TDLC. These matters are exempt under 5 U.S.C. 552 b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 22, 2015.

**Suzanne Plimpton,**

*Acting, Committee Management Officer.*

[FR Doc. 2015–09705 Filed 4–24–15; 8:45 am]

BILLING CODE 7555–01–P

## NATIONAL SCIENCE FOUNDATION

### Request for Information (RFI)—Federal Cybersecurity R&D Strategic Plan

**AGENCY:** The National Coordination Office (NCO) for Networking and Information Technology Research and Development (NITRD).

**ACTION:** Request for Information (RFI).

**FOR FURTHER INFORMATION CONTACT:** Tomas Vagoun at *vagoun@nitrd.gov* or (703) 292–4873.

**DATES:** To be considered, submissions must be received no later than June 19, 2015.

**SUMMARY:** In response to the Cybersecurity Enhancement Act of 2014, federal agencies are developing a Federal cybersecurity research and development strategic plan. On behalf of the agencies, the Cyber Security and Information Assurance Research and Development Senior Steering Group seeks public input on research objectives for the strategic plan. The strategic plan will be used to guide and coordinate federally-funded cybersecurity research.

**SUPPLEMENTARY INFORMATION:** The Cybersecurity Enhancement Act of 2014 (*https://www.congress.gov/bill/113th-congress/senate-bill/1353*) requires that the applicable federal agencies, working through the National Science and Technology Council (NSTC) and the Networking and Information Technology R&D (NITRD) Program, develop a Federal cybersecurity research and development strategic plan. The strategic plan is to be delivered to Congress by the end of 2015.

On behalf of NITRD, the Cyber Security and Information Assurance Research and Development Senior Steering Group (CSIA R&D SSG) seeks public input in several areas identified by the Act and regarding the current federal priorities in cybersecurity research and development (R&D). Responders are asked to answer one or more of the following questions:

**Questions Related to the Cybersecurity Enhancement Act of 2014**

1. Section 201 (a)(1) of the Act identifies a number of cybersecurity objectives. What scientific, technological, or implementation gaps are indicated by those objectives? What research goals, for both basic and applied research, could serve as guidance for a federally-funded, multi-agency portfolio of R&D activities to close those gaps?

2. What innovative, transformational technologies have the potential to enhance the security, reliability, resiliency, and trustworthiness of the digital infrastructure, and to protect consumer privacy?

3. Discuss how the Federal government can foster the rapid transfer of R&D results into new cybersecurity technologies and applications for the timely benefit of society and the national interest.

4. Discuss how the current research infrastructure for creating, testing, and evaluating the next generation of secure networking and information technology systems could be improved, including how the access by academic researchers to this infrastructure and related data could be improved.

In 2011, the Government released ''Trustworthy Cyberspace: Strategic Plan for the Federal Cybersecurity Research and Development Program'' (*http://www.nitrd.gov/subcommittee/csia/fed_cybersecurity_rd_strategic_plan_2011.pdf*) outlining objectives for federally-funded research to fundamentally improve the security, safety, and trustworthiness of the nation's digital infrastructure. The 2011 Strategic Plan defined five promising areas where research could make fundamental, game-changing advances in improving the security and trustworthiness of cyberspace: Tailored Trustworthy Spaces, Moving Target, Cyber Economic Incentives, Designed-In Security, and Science of Security. The challenges and objectives described in the 2011 Strategic Plan remain pertinent and will be incorporated into the new Strategic Plan. The following questions are directed at the 2011 Strategic Plan:

5. What areas of research or topics of the 2011 Strategic Plan do not need to be prioritized anymore for federally-funded research (because, for example, solutions are now sufficiently mature, or the private sector is now significantly invested in addressing the deficiencies)?

6. What areas of research or topics of the 2011 Strategic Plan should continue to be a priority for federally-funded research and need continued federal R&D investments?

7. What challenges or objectives not included in the 2011 Strategic Plan should be a strategic priority for federally-funded R&D in cybersecurity? Discuss what new capabilities would be desired, what objectives should guide such research, and why those objectives should be a strategic priority.

**Submission Instructions**

Page limitation: Submissions must be 25 pages or less.

Comments can be submitted by any of the following methods:

(a) *Email: cybersecurity@nitrd.gov.*

(b) *Fax:* (703) 292–9097, Attn: Cybersecurity Research and Development.

(c) *Mail:* Attn: Cybersecurity Research and Development, NCO, Suite II–405, 4201 Wilson Blvd., Arlington, VA 22230.

Deadline for submission under this RFI is June 19, 2015.

Responses to this RFI may be posted online at *http://www.nitrd.gov.* The CSIA R&D SSG therefore requests that no business proprietary information or copyrighted information be submitted in response to this RFI.

In accordance with FAR 15.202(3), responses to this notice are not offers and cannot be accepted by the Government to form a binding contract. Responders are solely responsible for all expenses associated with responding to this RFI.

Submitted by the National Science Foundation in support of the Networking and Information Technology Research and Development (NITRD) National Coordination Office (NCO) on April 22, 2015.

**Suzanne H. Plimpton,**

*Reports Clearance Officer, National Science Foundation.*

[FR Doc. 2015–09697 Filed 4–24–15; 8:45 am]

BILLING CODE 7555–01–P

## NUCLEAR REGULATORY COMMISSION

**[NRC–2015–0032]**

## Information Collection: Requests to Agreement States for Information

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Renewal of existing information collection; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Requests to Agreement States for Information.''

**DATES:** Submit comments by June 26, 2015. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** You may submit comments by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0032. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Tremaine Donnell, Office of Information Services, Mail Stop: T–5 F53, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Tremaine Donnell, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6258; email: *INFOCOLLECTS.Resource@NRC.GOV.*

**SUPPLEMENTARY INFORMATION:**

### I. Obtaining Information and Submitting Comments

*A. Obtaining Information*

Please refer to Docket ID NRC–2015–0032 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0032.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement is available in ADAMS under Accession No. ML15076A451.
- *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.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, Tremaine Donnell, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6258; email: *INFOCOLLECTS.Resource@NRC.GOV.*

*B. Submitting Comments*

Please include Docket ID NRC–2015–0032 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

### II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* Requests to Agreement States for Information.
2. *OMB approval number:* 3150–0029.
3. *Type of submission:* Revision.
4. *The form number, if applicable:* Not applicable.
5. *How often the collection is required or requested:* On occasion.
6. *Who will be required or asked to respond:* Thirty-Seven Agreement States who have signed Section 274(b) Agreements with the NRC.
7. *The estimated number of annual responses:* 421.8 responses.
8. *The estimated number of annual respondents:* 37.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 3,374.4 hours.
10. *Abstract:* The NRC is seeking to revise this information collection to be a plan for a generic collection of information. The need and practicality of the collection can be evaluated, but the details of the specific individual collections will not be known until a later time. The Agreement States will be asked on a one-time or as-needed basis to respond to a specific incident, to gather information on licensing and inspection practices or other technical information. The results of such information requests, which are authorized under Section 274(b) of the Atomic Energy Act, will be utilized in part by the NRC in preparing responses to Congressional inquiries.

### III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the estimate of the burden of the information collection accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 22nd day of April 2015.

For the Nuclear Regulatory Commission.

**Tremaine Donnell,**

*NRC Clearance Officer, Office of Information Services.*

[FR Doc. 2015–09718 Filed 4–24–15; 8:45 am]

**BILLING CODE 7590–01–P**

## RAILROAD RETIREMENT BOARD

### Proposed Collection; Comment Request

*Summary:* In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

*Comments are invited on:* (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

*Title and purpose of information collection:* Railroad Separation Allowance or Severance Pay Report; OMB 3220–0173.

Section 6 of the Railroad Retirement Act provides for a lump-sum payment to an employee or the employee's survivors equal to the Tier II taxes paid by the employee on a separation allowance or severance payment for which the employee did not receive credits toward retirement. The lump-sum is not payable until retirement benefits begin to accrue or the employee dies. Also, Section 4 (a–1)(iii) of the Railroad Unemployment Insurance Act provides that a railroad employee who is paid a separation allowance is disqualified for unemployment and sickness benefits for the period of time the employee would have to work to earn the amount of the allowance. The reporting requirements are specified in 20 CFR 209.14.

In order to calculate and provide payments, the Railroad Retirement Board (RRB) must collect and maintain records of separation allowances and severance payments which were subject to Tier II taxation from railroad employers. The RRB uses Form BA–9, Report of Separation Allowance or Severance Pay, to obtain information from railroad employers concerning the separation allowances and severance payments made to railroad employees and/or the survivors of railroad employees. Employers currently have the option of submitting their reports on paper Form BA–9, (or in like format) on a CD–ROM disk, or by File Transfer Protocol (FTP), or secure Email. Completion is mandatory. One response is requested of each respondent. The RRB proposes the implementation of an Internet equivalent version of Form BA–9 that can be submitted through the RRB's Employer Reporting System (ERS). No other changes are proposed.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

[The estimated annual respondent burden is as follows]

| Form number | Annual responses | Time (minutes) | Burden (hours) |
|---|---|---|---|
| BA–9 (Paper) | 100 | 76 | 127 |
| BA–9 (Internet) | 215 | 15 | 54 |
| BA–9 (CD–ROM) | 10 | 76 | 13 |
| BA–9 (secure Email) | 25 | 76 | 32 |
| BA–9 (FTP) | 10 | 76 | 13 |
| Total | 360 | | 239 |

*Additional Information or Comments:* To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, contact Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV*. Comments regarding the information collection should be addressed to Charles Mierzwa, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or emailed to *Charles.Mierzwa@RRB.GOV*. Written comments should be received within 60 days of this notice.

**Charles Mierzwa,**

*Chief of Information Resources Management.*

[FR Doc. 2015–09682 Filed 4–24–15; 8:45 am]

**BILLING CODE 7905–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold an Open Meeting on Wednesday, April 29, 2015 at 10:00 a.m., in the Auditorium, Room L–002.

The subject matter of the Open Meeting will be:

- The Commission will consider whether to propose amendments and re-propose a rule under the Securities Exchange Act of 1934 (''Exchange Act'') governing the application of certain Title VII requirements to security-based swap transactions connected with a non-U.S. person's dealing activity that are arranged, negotiated, or executed by personnel located in a U.S. branch or office or in a U.S. branch or office of an agent.
- The Commission will consider whether to propose amendments under Section 14(i) of the Exchange Act, as added by Section 953(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, requiring registrants to disclose in a clear manner the relationship between executive compensation actually paid and the financial performance of the registrant.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted, or postponed, please contact: The Office of the Secretary at (202) 551–5400.

Dated: April 22, 2015.

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–09789 Filed 4–23–15; 11:15 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–74771; File No. SR–ISE Gemini–2015–10)**

## Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Information Barrier Rules

April 21, 2015.

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 April 9, 2015 ISE Gemini, LLC (the ''Exchange'' or the ''ISE Gemini'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

ISE Gemini is proposing to amend its Rules 810 (Limitations on Dealings) and 717 (Limitations on Orders). The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange is proposing to amend its Rules 810 (Limitations on Dealings) and 717 (Limitations on Orders) governing information barriers. Specifically, the Exchange is proposing to amend the portion of the rules that address the limitation on the flow of information between a member's Electronic Access Member (''EAM'') unit, which handles the customer/agency side of the business, and its affiliated Primary Market Maker (''PMM'') and/or Competitive Market Maker (''CMM'') (jointly, ''market makers'') unit, which handles the proprietary side of the business.

The International Securities Exchange, LLC (''ISE'') recently amended its Rule 810 to allow EAMs to know where and at what price its affiliated market makers are either quoting or have orders on the order book [3] and to use that information to influence their routing decisions.[4] As such, an EAM may route an order that it is handling on an agency basis to the ISE where its affiliated market maker is either quoting or has an order on the order book so that the two orders immediately interact. ISE Gemini is now proposing to adopt the same change.

The proposal is designed to be consistent with the protections against the misuse of material nonpublic information,[5] [sic] should be able to consider the outstanding quotes of their affiliated marker [sic] maker units for the purposes of calculating net positions and making routing decisions to increase the member's interaction rate between its EAM unit and affiliated market making unit(s). This proposal, in tandem with existing ISE Gemini conduct rules,[6] ISE Gemini's review and approval of the information barrier procedures submitted by market makers that will be conducting Other Business Activities,[7] ISE Gemini's ongoing surveillances for manipulative conduct, and FINRA's exam program that reviews such members [sic] compliance with such policies and procedures, should provide a regulatory framework that guards customer interests and protects against the misuse of material nonpublic information, while increasing the operational flexibility of ISE Gemini's members. ISE Gemini notes that nothing in this proposed rule change would relieve members of their best execution obligation to obtain the most favorable terms reasonably available for customer orders. As a national securities exchange, ISE Gemini has a comprehensive surveillance program to monitor member compliance with applicable rules and regulations, including best execution. The Exchange will continue to monitor for abnormalities in interaction rates between members, and investigate and take appropriate regulatory action against members that fail to comply with their best execution obligations.

With this proposed rule change, the EAM unit of a member will only have access to orders and quotes that are publicly available to all market participants. The proposed rule change will not permit the EAM unit of a member to have access to any non-public order or quote information of the affiliated market maker, including hidden or undisplayed size or price information of such orders and quotes. Market makers are not allowed to post hidden or undisplayed orders and quotes on the Exchange. Additionally, members do not expect to receive any additional order or quote information as a result of this proposed rule change.

ISE Gemini Rule 717(d) and (e) requires members to expose certain orders entered on the limit order book for at least one second before executing them as principal or against orders that were solicited from other broker-dealers. This requirement applies when the EAM is handling both sides of a trade and not when an EAM is handling a marketable order as agent and is routing that order to execute against a quote/order resting on the order book. Accordingly, when customer order(s) that an EAM is handling as agent

[3] According to Rule 805(b)(1)(i) and (ii) market makers may only have orders on the order book in option classes to which they are not appointed.

[4] *See* Securities Exchange Act Release No. 74521 (March 7, 2015), 80 FR 15262 (March 23, 2015) (SR–ISE–2014–43).

[5] *See, e.g.,* 15 U.S.C. 78o(g). Section 15(g) of the Securities and Exchange Act of 1934 (the ''Act'') requires every broker or dealer to ''establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of such broker's or dealer's business, to prevent the misuse. . .of material, nonpublic information by such broker or dealer or any person associated with such broker or dealer.''

[6] *See, e.g.,* ISE Rules 400 (Just and Equitable Principles of Trade), 401 (Adherence to Law), 405 (Manipulation), 408 (Prevention of the Misuse of Material, Nonpublic Information) and 713 (Priority of Quotes and Orders).

[7] ISE Rule 810 defines ''Other Business Activities'' as meaning, (1) conducting an investment or banking or public securities business; (2) making markets in the stocks underlying the options in which it makes markets; (3) handling listed options orders as agent on behalf of Public Customers or broker-dealers; or (4) conducting non-market making proprietary listed options trading activities.

executes against an affiliated market maker's quote or order, it appears as though the EAM was in fact handling both sides of the trade, and did not comply with the order exposure requirements of ISE Gemini Rule 717(d) and (e). However, because the Exchange does not publicly identify the member that entered an order on the limit order book, orders from the same firm may inadvertently execute against each other as a result of being entered by disparate persons and/or systems at the same member firm. Therefore, when enforcing Rule 717(d) and (e), the Exchange has never considered the inadvertent interaction of orders from the same firm within one second to be a violation of the exposure requirement.

On September 20, 2011 the ISE codified this longstanding policy in Supplementary Material .06 to Rule 717,[8] which specified that members can demonstrate that orders were entered without knowledge of a pre-existing order on the book represented by the same firm by providing evidence that effective information barriers between the persons, business units and/or systems entering the orders onto the Exchange were in existence at the time the orders were entered.[9] This rule requires that such information barriers be fully documented and provided to the Exchange upon request.[10]

Given the proposed change to ISE Rule 810, the ISE also made a corresponding change to Supplementary Material .06 to Rule 717 to specify that orders from the same member's EAM unit and its affiliated PMM and/or CMM unit may interact within one second without being a violation of the order exposure requirement of paragraph [sic] (d) and (e) of Rule 717 when the firm can demonstrate that the customer order that it routed was marketable, the EAM was not handling the affiliated market maker quote/order and the affiliated market maker quote/order was in existence at the time the customer order(s) were entered into the ISE's system.[11]

When the Exchange was drafting the ISE Gemini rulebook, adopting .06 of the supplementary material to Rule 717 was inadvertently overlooked. Accordingly, the Exchange is now proposing to adopt .06 of the supplementary material to ISE Gemini Rule 717 in its entirety, which the Exchange is proposing to be identical to .06 of the supplementary material as it currently appears in the ISE rulebook.

The Exchange believes that adopting these rule changes will allow for the Exchange to provide its membership with increased operational flexibility while keeping intact the original purpose of the rule, which was intended to prevent market makers from using customer order flow information to influence their quotations. The Exchange believes that allowing information to flow from the market maker to the EAM would not compromise the integrity of our market, nor would it introduce customer harm, as discussed in more detail above. Additionally, the Exchange believes that market quality will not be eroded due to these changes because the information barrier preventing the flow of information from the EAM to its' affiliated market maker remains unchanged, meaning, market makers will continue to be unable to adjust their quotes either to intercept or avoid orders since that side of the barrier remains in force.

2. *Statutory Basis*—The basis under the Act for this proposed rule change is the requirement under Section 6(b),[12] in general, and Section 6(b)(5) [13] in particular, that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, the Exchange believes that amending its rules to allow information to flow from the market maker to the EAM would not compromise the integrity of the market as the information barrier preventing the flow of information from the EAM to its affiliated market maker remains unchanged. Meaning, a market maker cannot be privy to nonpublic information about incoming customer orders and adjust their quotations in response. The Exchange also believes that this rule change will not introduce customer harm as this change does not impact the order protection rules applicable to an EAM handling an order as agent,[14] but rather allows the EAM to route to a specific destination to interact with its affiliated market makers' quotations or orders in the same manner that the EAM would route orders to access quotes and orders of market makers that it is not affiliated with. In addition, members will continue to be subject to federal and Exchange requirements for preventing the misuse of material nonpublic order information.[15]

Additionally, the Exchange notes that the rule will still require that member organizations maintain and enforce policies and procedures reasonably designed to ensure compliance with applicable federal securities laws and regulations and with Exchange rules. Such written policies and procedures will continue to be subject to oversight by the Exchange and therefore allowing information to flow from the market makers to their affiliated EAMs should not reduce the effectiveness of the Exchange rules to protect against the misuse of material nonpublic information. Rather the Exchange believes that a member should be able to integrate its market makers' positions and quoting information with its EAM unit(s) because this proposal, in tandem with existing ISE Gemini conduct rules,[16] ISE Gemini's review and approval of the information barrier procedures submitted by market makers that will be conducting Other Business Activities, ISE Gemini's ongoing surveillances for manipulative conduct, and FINRA's exam program that reviews such members compliance with such policies and procedures, should provide a regulatory framework that guards customer interests and protects against the misuse of material nonpublic information. ISE Gemini notes that nothing in this proposed rule change would relieve members of their best execution obligation to obtain the most favorable terms reasonably available for customer orders. As a national securities exchange, ISE Gemini has a comprehensive surveillance program to monitor member compliance with applicable rules and regulations, including best execution. The Exchange will continue to monitor for abnormalities in interaction rates between members, and investigate and take appropriate regulatory action against members that fail to comply with their best execution obligations. As discussed, the proposed changes do not alter a member's best execution duty to

[8] *See* Securities Exchange Act Release No. 65361 (September 20, 2011), 76 FR 59472 (September 26, 2011) (SR–ISE–2011–42).

[9] The Exchange conducts routine surveillance to identify instances when an order on the limit order book is executed against an order entered by the same firm within one second.

[10] The Exchange reviews information barrier documentation to evaluate whether a member has implemented processes that are reasonably designed to prevent the flow of pre-trade order information given the particular structure of the member firm. Additionally, information barriers are reviewed as part of the Exchange's examination program, which is administered by the Financial Industry Regulatory Authority (''FINRA'') pursuant to a regulatory services agreement.

[11] *See* note 4.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] *See* note 7 [sic].

[15] *See* 15 U.S.C. 78o(g) and ISE Rule 408.

[16] *See* note 7 [sic].

get the best price for its customer and, therefore, the Exchange does not believe that the proposed changes provide any advantage or disadvantage to customers or the markets in general.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. However, the Exchange believes that Rule 810 currently imposes a burden on competition for the Exchange because it requires market makers that engage in Other Business Activities to operate in a manner that the Exchange believes is more restrictive than necessary for the protection of investors to the public interest. The Exchange believes that the proposed rule change is pro-competitive because it is consistent with how other national securities exchanges are currently interpreting their rules and should provide greater flexibility to allow member firms to make routing decisions based on the same information across multiple markets.

*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 unsolicited written comments from members or other interested parties.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange believes that the foregoing proposed rule change may take effect upon filing with the Commission pursuant to Section 19(b)(3)(A) [17] of the Act and Rule 19b–4(f)(6) thereunder [18] because the foregoing proposed rule change does not (i) significantly affect the protection of investors or the public interest, (ii) impose any significant burden on competition, and (iii) become operative for 30 days after its filing date, or such shorter time as the Commission may designate.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE Gemini–2015–10 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE Gemini–2015–10. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also 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–ISE Gemini–2015–10 and should be submitted on or before May 18, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

**Jill M. Peterson,**

*Assistant Secretary.*

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[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–74774; File No. SR–NYSEArca–2015–31]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Modifying the Manner in Which It Calculates Volume, Liquidity and Quoting Thresholds Applicable to Billing on the Exchange on March 31, 2015

April 21, 2015.

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 April 10, 2015, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change**

The Exchange proposes to modify the manner in which it calculates volume, liquidity and quoting thresholds applicable to billing on the Exchange in connection with an interruption in trading in certain securities on the Exchange on March 31, 2015. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to modify the manner by which it calculates volume, liquidity and quoting thresholds applicable to billing on the Exchange due to issues relating to trading on the Exchange in certain securities on March 31, 2015.

Specifically, on March 31, 2015, trading was unavailable in a range of symbols on the Exchange for a period of more than two hours, resulting in a more than 30% decrease in trading volume on the Exchange (Tape A, B and C securities combined) for that day as compared to average daily volume (''ADV'') on the Exchange for all of the prior trading days in March 2015. In addition, once trading and quoting resumed on the Exchange, market participants were advised to use market data from the Consolidated Tape Association (SIP) feed rather than from the NYSE Arcabook feed as the NYSE ArcaBook feed data may have been compromised as a result of the issues with trading.[3] The Exchange believes that these issues impacted the ability of ETP Holders, including Market Makers, to engage in typical trading, quoting and liquidity in their assigned securities on March 31, 2015, leading to decreased quoting and trading volume compared to ADV and U.S. consolidated average daily volume (''CADV'') for the previous trading days combined in March 2015.

As provided for in the Exchange's Schedule of Fees and Charges for Exchange Services (''Equities Fee Schedule''), several of the Exchange's transaction fees and credits are based on trading, quoting and liquidity thresholds that ETP Holders must satisfy in order to qualify for the particular rates (*i.e.,* percentage of CADV and ADV thresholds). The Exchange believes that the issues that occurred on March 31, 2015 impacted the ability of ETP Holders to meet these thresholds during March 2015.[4] The Exchange therefore proposes to exclude March 31, 2015 from any CADV or ADV calculation described in the Equities Fee Schedule in order to reasonably ensure that an ETP Holder that would otherwise qualify for a particular threshold during March 2015, and the corresponding transaction rate, would not be negatively impacted by issues that occurred on March 31, 2015.

The proposed change is not otherwise intended to address any other issues relating to fees and the Exchange is not aware of any problems that ETP Holders would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[6] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed rule change is reasonable because excluding March 31, 2015 from any CADV or ADV calculation described in the Equities Fee Schedule would reasonably ensure that an ETP Holder that would otherwise qualify for a particular threshold during March 2015, and the corresponding transaction rate, would not be negatively impacted by the issues that occurred on March 31, 2015. The Exchange also believes that the proposed rule change is equitable and not unfairly discriminatory because the issue with trading on the Exchange, which lasted more than two hours, resulted in significant decreases in trading volume and also impacted the ability of ETP Holders on the Exchange, including Market Makers, to engage in typical trading, quoting and liquidity in their assigned securities on March 31, 2015, leading to decreased quoting and trading volume compared to ADVs and CADVs for the previous trading days in March 2015. Therefore, excluding March 31, 2015 from any CADV or ADV calculation described in the Equities Fee Schedule would reasonably ensure than any market participant on the Exchange would not be negatively impacted by the issues that occurred on March 31, 2015 with respect to billing on the Exchange. The proposed rule change is also equitable and not unfairly discriminatory because it would result in all market participants on the Exchange being treated equally by excluding March 31, 2015 from any CADV or ADV calculation described in the Equities Fee Schedule.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[7] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change would treat all market participants on the Exchange equally by excluding March 31, 2015 from any CADV or ADV calculation described in the Equities Fee Schedule. Moreover, the Exchange believes that the proposed change would enhance competition between competing marketplaces by enabling the Exchange to exclude March 31, 2015 from any CADV or ADV calculation described in the Equities Fee Schedule.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9]

[3] *See* NYSE Arca Equities Trader Update, ''March 31, 2015, NYSE Arca Equities Trading Interruption in Tape B Symbol Range ''UTG–ZSML,'' April 2, 2015, available at *https://www.nyse.com/trader-update/history.*

[4] The Exchange notes that it does not perform the calculations necessary to determine whether these thresholds have been met until after the particular billing month has ended.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

[7] 15 U.S.C. 78f(b)(8).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule

Continued

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[10] normally does not become operative for 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[11] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. As represented by the Exchange, excluding March 31, 2015 from any CADV or ADV calculation described in the Equities Fee Schedule would reasonably ensure that any market participant on the Exchange would not be negatively impacted by the issues that occurred on March 31, 2015 with respect to billing on the Exchange. Accordingly, waiving the 30-day operative delay would eliminate the potential for confusion among ETP Holders and the public regarding how the Exchange will calculate volume, liquidity, and quoting thresholds related to billing for activity on the Exchange during March 2015 and, more specifically, on March 31, 2015, and permit the Exchange to determine transaction fees and credits for ETP Holders in a timely manner after the end of the billing month of March 2015. Therefore, the Commission hereby designates the proposed rule change operative upon filing.[12]

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 shall institute proceedings under Section 19(b)(2)(B) of the Act[13] to determine whether the proposed rule should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2015–31 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca-2015–31. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2015–31, and should be submitted on or before May 18, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

**Jill M. Peterson,**

*Assistant Secretary.*

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change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78s(b)(2)(B).

[14] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–74773; File No. SR–BX–2015–022]**

## Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rules 7001, 7003 and 7018

April 21, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 10, 2015, NASDAQ OMX BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend BX Rule 7001 trading rights fees and to no longer waive certain membership and trading rights fees for BX members seeking to participate solely in the BX Options Market, to eliminate the Equities Regulatory Fee in BX Rule 7003, as well as to amend the fee schedule under Exchange Rule 7018 and to correct a typographical error in the rule.

The text of the proposed rule change is also available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.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 aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange is proposing to amend the trading rights fee [3] and to no longer waive certain membership and trading rights fees for BX members seeking to participate solely in the BX Options Market in BX Rule 7001(a), to eliminate the Equities Regulatory Fee in BX Rule 7003(b), as well as to amend the fee schedule under Exchange Rule 7018.

Specifically, the Exchange proposes to amend BX Rule 7001(a) to increase the trading rights fee each Exchange member is assessed from $500 per month to $1,000 per month. Additionally, the Exchange will no longer waive the membership fee and the trading rights fee for BX members who solely conduct an options business. These fee changes and elimination of fee waivers reflect that this market is now better established and BX no longer needs to rely on such waivers to attract market participants.

The Exchange also proposes to eliminate the Equities Regulatory Fee (''ERF'') set forth in BX Rule 7003(b). The ERF is a tier-based fee assessed annually at the beginning of the calendar year that covers, in part, the regulatory costs of the Exchange. The ERF uses a member firm's historical average daily orders entered on the Exchange over the prior calendar year as a measure of the member's expected current year's Exchange activity. The purpose of the ERF is to more closely allocate the regulatory expenses incurred by the Exchange to the member firms responsible for those expenses. The Exchange now proposes to eliminate this fee because the Exchange believes it is no longer necessary to cover regulatory costs based on historic volume.[4]

The Exchange is proposing to amend BX Rule 7018(a) to decrease the credits and charges for orders that access or provide liquidity in the NASDAQ OMX BX Equities System (the ''System'').

Specifically, both for orders that receive price improvement and execute against an order with Midpoint pegging and those with Midpoint pegging that remove liquidity, the credit is being reduced from $0.0005 per share executed to $0.0000 per share executed.

For orders that access liquidity (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with Midpoint pegging) entered by a member that accesses liquidity equal to or exceeding 0.1% of total Consolidated Volume [5] during a month the credit is being reduced from $0.0015 per share executed to $0.0010 per share executed.

For an order that accesses liquidity (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with Midpoint pegging) entered by a member with a daily average volume of liquidity provided in all securities during the month of 1 million or more shares, the Exchange proposes to change the parameter that the daily average volume of liquidity provided in all securities during the month of 1 million or more shares entered by a member to a parameter whereby a member must instead add 0.015% of total Consolidated Volume during a month. Additionally, the credit will be reduced from $0.0013 per share executed to $0.0008 per share executed.

The Exchange proposes to reduce the credit for orders that access liquidity (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with Midpoint pegging) entered by a member that provides an average daily volume of at least 25,000, but less than 1 million, shares of liquidity during the month from $0.0011 per share executed to $0.0006 per share executed. The Exchange also proposes to also remove the ''but less than 1 million'' shares cap parameter.

BX proposes to reduce the credit for BSTG,[6] BSCN,[7] BMOP,[8] BTFY,[9] BCRT,[10] BDRK [11] or BCST [12] orders that access liquidity in the System (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with Midpoint pegging) from $0.0011 per share executed to $0.0006 per share executed.

The Exchange next proposes to reduce the charges for providing liquidity through the System as well. Specifically, the charge for displayed orders entered by a Qualified Market Maker (''QMM'') (Tier 1) will be reduced from $0.0014 per share executed to $0.0009 per share executed and the charge for displayed orders entered by a QMM (Tier 2) will be eliminated, therefore, the parenthetical with ''Tier 1'' following ''Displayed order entered by a Qualified Market Maker'' will be eliminated as well since there will no longer be a Tier 2. For a displayed order entered by a member that adds liquidity equal to or exceeding 0.25% of total Consolidated Volume during a month the charge will be reduced from $0.00165 per share executed to $0.0012 per share executed.

BX next proposes to reduce the charge for a displayed order entered by a member that provides an average daily volume of 2.5 million or more shares of liquidity during the month from $0.0018 per share executed to $0.0014 per share executed, but will change the parameter that a member provide an average daily volume of 2.5 million or more shares of liquidity during the month to the parameter that the member must add liquidity equal to or exceeding 0.04% of total Consolidated Volume during a month.

The Exchange proposes to reduce the charge for an order with Midpoint pegging entered by a member that provides an average daily volume of 2 million or more shares of non-displayed liquidity during the month from $0.0005 per share executed to $0.0002 per share executed, but will replace the parameter that a member provide an average daily volume of 2 million or more shares of non-displayed liquidity during the month with the parameter that a member must add 0.03% of total Consolidated Volume of non-displayed liquidity.

BX also proposes to reduce the charge for an order with Midpoint pegging entered by a member that provides an average daily volume of 1 million or more, but less than 2 million, shares of non-displayed liquidity from $0.0009 per share executed to $0.0004 per share executed, but will replace the parameter that the member provides an average daily volume of 1 million or more, but less than 2 million, shares of non-displayed liquidity with the parameter that a member must add 0.015% of total

[3] The Trading Rights Fee is assessed on all persons that are Exchange members as of a date determined by the Exchange in each month. This fee is not refundable in the event that a person ceases to be an Exchange member following the date on which the fee is assessed. *See* Rule 7001.

[4] Despite eliminating the ERF, the Exchange represents that it will continue to have adequate resources to fund its regulatory program and to fulfill its responsibilities as a self-regulatory organization.

[5] Consolidated Volume is defined as the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of a member's trading activity, expressed as a percentage of or ratio to Consolidated Volume, the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member's trading activitiy. *See* Rule 7018(a).

[6] *See* BX Rule 4758(a)(1)(A)(iii).

[7] *See* BX Rule 4758(a)(1)(A)(iv).

[8] *See* BX Rule 4758(a)(1)(A)(vi).

[9] *See* BX Rule 4758(a)(1)(A)(v).

[10] *See* BX Rule 4758(a)(1)(A)(vii).

[11] *See* BX Rule 4758(a)(1)(A)(viii).

[12] *See* BX Rule 4758(a)(1)(A)(ix).

Consolidated Volume of non-displayed liquidity.

The Exchange proposes to also reduce the charge for an order with Midpoint pegging entered by other member from 0.0015 per share executed to 0.0010 per share executed.

The Exchange proposes to reduce the charge for non-displayed orders (other than orders with Midpoint pegging) entered by a member that provides an average daily volume of 5 million or more shares of non-displayed liquidity from $0.0019 per share executed to $0.0014 per share executed, but will replace the parameter that the member provides an average daily volume of 5 million or more shares of non-displayed liquidity with the parameter that a member must add 0.075% of total Consolidated Volume of non-displayed liquidity.

The Exchange also proposes to reduce the charge for non-displayed orders (other than orders with Midpoint pegging) entered by a member that provides an average daily volume of 3.5 million or more shares (but less than 5 million shares) of non-displayed liquidity from $0.0024 per share executed to $0.0019 per share executed, but will replace the parameter that the member provides an average daily volume of 3.5 million or more shares (but less than 5 million shares) of non-displayed liquidity with the parameter that a member must add 0.055% of total Consolidated Volume of non-displayed liquidity.

BX also proposes to amend how a firm may become a QMM (Tier 1), in part, by eliminating two of these ways. Also, and as a result, the parenthetical with ''Tier 1'' following ''A Firm may become a Qualified Market Maker'' will be eliminated since there will no longer be a Tier 2 as previously stated. The first option eliminated is by being a member with (i) shares of liquidity provided and (ii) total shares of liquidity accessed and provided in all securities through one or more of its System market maker participant identifier (''MPIDs'') that represent more than 0.40% and 0.50%, respectively, of Consolidated Volume. For a member qualifying under this method, the member must have at least one Qualified MPID, that is, an MPID through which, for at least 150 securities, the QMM quotes at the national best bid or offer (''NBBO'') an average of at least 25% of the time during regular market hours (9:30 a.m. through 4:00 p.m.) during the month. The second option eliminated is by being a member with (i) shares of liquidity provided and (ii) total shares of liquidity accessed and provided in all securities through one or more of its System MPIDs that represent more than 0.30% and 0.45%, respectively, of Consolidated Volume during the month. For a member qualifying under this method, the member must have at least one Qualified MPID, that is, an MPID through which, for at least 400 securities, the QMM quotes at the NBBO an average of at least 25% of the time during regular market hours (9:30 a.m. through 4:00 p.m.) during the month.

The third option remains, but is being amended. Currently, this option states that a firm may become a QMM (Tier 1) by being a member with (i) shares of liquidity provided and (ii) total shares of liquidity accessed and provided in all securities through one or more of its System MPIDs that represent more than 0.20% and 0.30%, respectively, of Consolidated Volume during the month. For a member qualifying under this method, the member must have at least one Qualified MPID, that is, an MPID through which, for at least 200 securities, the Qualified Market Maker quotes at the NBBO an average of at least 50% of the time during regular market hours (9:30 a.m. through 4:00 p.m.) during the month. The member must also provide an average daily volume of 1.5M shares or more using orders with midpoint pegging during the month. BX proposes to amend the beginning of this requirement to say that a firm qualifies by being a member that provides through one or more of its System MPIDs more than 0.30% of Consolidated Volume during the month (the rest of the requirement remains unchanged).

BX proposes to eliminate QMM (Tier 2) altogether.

Finally, the Exchange proposes to reduce certain credits for retail orders in BX Rule 7018(e). Specifically, BX proposes to reduce the credit from $0.0005 per share executed to $0.0002 per share executed for a retail order that receives price improvement (when the accepted price of an order is different than the executed price of an order) and accesses a non-Retail Price Improvement order with Midpoint pegging. Also, ''that'' in the parenthetical above has been changed to ''than'' to reflect the correction to a typographical error in the corresponding rule text. Lastly, the Exchange proposes to reduce the credit from $0.0017 per share executed to $0.0012 per share executed for a retail order that accesses other liquidity on the Exchange book.

2. Statutory Basis

BX believes that the proposed rule changes are consistent with the provisions of Section 6 of the Act,[13] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[14] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed change to amend BX Rule 7001(a) to increase the trading rights fee each Exchange member is assessed from $500 per month to $1,000 per month is reasonable because the Exchange desires to continue to cover the ongoing costs of operating the platform for the benefit of its members. BX also believes that the proposed change is consistent with an equitable allocation of fees and is not unfairly discriminatory because it affects all members equally in the same way.

The Exchange believes that the proposed change to eliminate the waiver of the membership fee and the trading rights fee for BX members who solely conduct an options business is reasonable because the Exchange no longer believes it is necessary to waive these fees to attract market participants to the BX Options Market since this market is now better established and BX no longer needs to rely on such waivers to attract market participants. The Exchange believes that the proposed changes are equitable and not unfairly discriminatory because the elimination of the membership fee and trading rights fee waivers will uniformly apply to BX Options Participants that transact business solely on the BX Options Market.

The Exchange believes that the proposed change to eliminate the ERF set forth in BX Rule 7003(b) is reasonable because it is no longer necessary to cover regulatory costs based on historic volume plus not all members pay this fee. The Exchange believes that the proposed change is

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(4) and (5).

equitable and not unfairly discriminatory because the elimination of the ERF applies uniformly and it affects similarly situated members in the same way.

The proposed reduction to the credits and charges in the fee schedule under Exchange Rule 7018 are reflective of BX's ongoing efforts to use pricing incentive programs to attract order flow to BX and improve market quality. The goal of these pricing incentives is to provide meaningful incentives for members to increase their participation on BX. Specifically, the Exchange believes that the reduction to the credits from $0.0005 per share executed to $0.0000 per share executed for both orders that receive price improvement and execute either against an order with Midpoint pegging or those with Midpoint pegging that remove liquidity, are reasonable because these reduced credits are aligned with the reduced charges BX is also putting in place through this filing. The Exchange also believes that the proposed changes are equitably allocated and not unfairly discriminatory because the credit reductions apply uniformly to all members that previously had qualified to receive such a credit.

The Exchange believes that the reduction to the credit from $0.0015 per share executed to $0.0010 per share executed for orders that accesses liquidity (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with Midpoint pegging) entered by a member that accesses liquidity equal to or exceeding 0.1% of total Consolidated Volume during a month is reasonable because the reduced credit aligns it more closely with the reduced charges BX is also putting in place through this filing. The Exchange also believes that the proposed change is equitably allocated and not unfairly discriminatory because the credit reduction applies uniformly to all members that qualify to receive such a credit.

The Exchange believes that the reduction to the credit from $0.0013 per share executed to $0.0008 per share executed for an order that accesses liquidity (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with Midpoint pegging) entered by a member with a daily average volume of liquidity provided in all securities during the month of 1 million or more shares, and the change to the daily average volume of liquidity provided in all securities during the month of 1 million or more shares parameter, to a parameter that the member that [sic] must add 0.015% of total Consolidated Volume during a month is reasonable because the reduced credit aligns it more closely with the reduced charges BX is also putting in place through this filing. Also, the amended parameter switching to total Consolidated Volume will allow a member's target activity levels to adjust with overall market volumes making such targets easier to reach during low share volume months and more difficult to reach during higher share volume months. However, the percent of total Consolidated Volume requirement approximately represents a similar level of volume on average as the previous parameter did given the current Consolidated Volume requirement. Additionally, the Exchange further believes that the proposed change is equitably allocated and not unfairly discriminatory because the credit applies uniformly to all members that qualify to receive such a credit.

The Exchange believes that the reduction to the credit from $0.0011 per share executed to $0.0006 per share executed for orders that access liquidity (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with Midpoint pegging) entered by a member that provides an average daily volume of at least 25,000, but less than 1 million, shares of liquidity during the month and the removal of the ''but less than 1 million'' shares cap parameter is reasonable because it reduces confusion as to when the rate applies since the next tier is tied to the percent of total Consolidated Volume. The elimination of the 1 million share cap removes a restriction that allows more members to qualify for this credit. Additionally, the Exchange further believes that the proposed change is equitably allocated and not unfairly discriminatory because the credit applies uniformly to all members that qualify to receive such a credit.

The Exchange believes that the reduction to the credit from $0.0011 per share executed to $0.0006 per share executed for BSTG, BSCN, BMOP, BTFY, BCRT, BDRK or BCST orders that access liquidity in the System (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with Midpoint pegging) is reasonable because the reduced credit aligns it more closely with the reduced charges BX is also putting in place through this filing. Additionally, the Exchange further believes that the proposed change is equitably allocated and not unfairly discriminatory because the credit applies uniformly to all members that qualify to receive such a credit.

BX also believes that the reduction to the charges from $0.0014 per share executed to $0.0009 per share executed for displayed orders entered by a QMM (Tier 1) and the elimination of the $0.0017 per share executed charge for displayed orders entered by a QMM (Tier 2) are reasonable because the reduced charge and elimination of another charge align them more closely with the reduced credits BX is also putting in place through this filing. Also, since the behavior required to qualify to become a QMM (Tier 2) has not been met by firms recently, and in light of the lack of interest by firms in meeting these requirements, the Exchange proposes to eliminate it and the associated rate from the fee schedule. Additionally, the Exchange further believes that the proposed changes are equitably allocated and not unfairly discriminatory because the reduced QMM (Tier 1) charge and eliminated QMM (Tier 2) charge apply uniformly to all members that display an order entered by a QMM (Tier 1) or previously displayed and order entered by a QMM (Tier 2). The parenthetical with ''Tier 1'' following ''Displayed order entered by a Qualified Market Maker'' also will be eliminated since there will no longer be a Tier 2 and the Exchange believes that this change clarifies and eliminates the potential for confusion to the benefit of market participants. The Exchange believes that this clarification will promote market participants' understanding of the rule and its administration.

The Exchange believes that the reduction to the charge from $0.00165 per share executed to $0.0012 per share executed for a displayed order entered by a member that adds liquidity equal to or exceeding 0.25% of total Consolidated Volume during a month is reasonable because the reduced charge is designed to encourage additional posted liquidity that, in turn, will enable the Exchange to provide a more liquid marketplace and attract contra order flow. Additionally, the Exchange further believes that the proposed change is equitably allocated and not unfairly discriminatory because all members can add liquidity to BX and the more liquidity a member adds the lower the charge because the member is improving the quality of the market by providing this additional liquidity.

BX believes that the reduction to the charge from $0.0018 per share executed to $0.0014 per share executed coupled with the change to the parameter that a member provide an average daily

volume of 2.5 million or more shares of liquidity during the month to a parameter that the member add liquidity equal to or exceeding 0.04% of total Consolidated Volume during a month is reasonable because the reduced charge is designed to encourage additional posted liquidity that, in turn, will increase the liquidity of the market and attract contra order flow. Also, the amended parameter switching to total Consolidated Volume will allow a member's target activity levels to adjust with overall market volumes making such targets easier to reach during low share volume months and more difficult to reach during higher share volume months. However, the percent of total Consolidated Volume requirement approximately represents a similar level of volume on average as the previous parameter did given the current Consolidated Volume requirement. Additionally, the Exchange further believes that the proposed change is equitably allocated and not unfairly discriminatory because all members can add liquidity to BX and the more liquidity a member adds the lower the charge because the member is improving the quality of the market by providing this additional liquidity.

The Exchange believes that the reduction to the charge from $0.0005 per share executed to $0.0002 per share executed coupled with a change to the requirement for an order with Midpoint pegging entered by a member that provides an average daily volume of 2 million or more shares of non-displayed liquidity during the month to the requirement that a member adds 0.03% of total Consolidated Volume of non-displayed liquidity is reasonable because the reduced charge is designed to encourage additional posted liquidity that, in turn, will enable the Exchange to increase liquidity posted at the midpoint and provide additional price improvement opportunity for contra orders. Also, the amended parameter switching to total Consolidated Volume will allow a member's target activity levels to adjust with overall market volumes making such targets easier to reach during low share volume months and more difficult to reach during higher share volume months. However, the percent of total Consolidated Volume requirement approximately represents a similar level of volume on average as the previous parameter did given the current Consolidated Volume requirement. Additionally, the Exchange further believes that the proposed change is equitably allocated and not unfairly discriminatory because all members can add liquidity to BX and the more liquidity a member adds the lower the charge because the member is improving the quality of the market by providing this additional liquidity.

The Exchange believes that the reduction to the charge from $0.0009 per share executed to $0.0004 per share executed coupled with a change to the requirement that for an order with Midpoint pegging entered by a member that provides an average daily volume of 1 million or more, but less than 2 million, shares of non-displayed liquidity to that a member adds 0.015% of total Consolidated Volume of non-displayed liquidity is reasonable because the reduced charge is designed to encourage additional posted liquidity that, in turn, will increase midpoint liquidity and increase the chance of incoming orders to receive price improvement and thereby attract contra order flow. Also, the amended parameter switching to total Consolidated Volume will allow a member's target activity levels to adjust with overall market volumes making such targets easier to reach during low share volume months and more difficult to reach during higher share volume months. However, the percent of total Consolidated Volume requirement approximately represents a similar level of volume on average as the previous parameter did given the current Consolidated Volume requirement. Additionally, the Exchange further believes that the proposed change is equitably allocated and not unfairly discriminatory because all members can add liquidity to BX and the more liquidity a member adds the lower the charge because the member is improving the quality of the market by providing this additional liquidity.

BX also believes that the reduction to the charges from $0.0015 per share executed to $0.0010 per share executed for an order with Midpoint pegging entered by other member is reasonable because the reduced charge is designed to encourage additional posted liquidity that, in turn, will increase midpoint liquidity and increase the chance of incoming orders to receive price improvement and thereby attract contra order flow. Additionally, the Exchange further believes that the proposed change is equitably allocated and not unfairly discriminatory because all members can add liquidity to BX and the more liquidity a member adds the lower the charge because the member is improving the quality of the market by providing this additional liquidity.

The Exchange believes that the reduction to the charges from $0.0019 per share executed to $0.0014 per share executed for a non-displayed order (other than orders with Midpoint pegging) entered by a member that provides an average daily volume of 5 million or more shares of non-displayed liquidity coupled with a change to the requirement that the member provides an average daily volume of 5 million or more shares of non-displayed liquidity to a requirement that a member adds 0.075% of total Consolidated Volume of non-displayed liquidity is reasonable because the reduced charge is designed to encourage additional posted liquidity that, in turn, will enable the Exchange to collect additional fees to provide rebates and thereby attract contra order flow. Also, the amended parameter switching to total Consolidated Volume will allow a member's target activity levels to adjust with overall market volumes making such targets easier to reach during low share volume months and more difficult to reach during higher share volume months. However, the percent of total Consolidated Volume requirement approximately represents a similar level of volume on average as the previous parameter did given the current Consolidated Volume requirement. Additionally, the Exchange further believes that the proposed change is equitably allocated and not unfairly discriminatory because all members can add liquidity to BX and the more liquidity a member adds the lower the charge because the member is improving the quality of the market by providing this additional liquidity.

The Exchange also believes that the reduction to the charges from $0.0024 per share executed to $0.0019 per share executed for non-displayed orders (other than orders with Midpoint pegging) entered by a member that provides an average daily volume of 3.5 million or more shares (but less than 5 million shares) of non-displayed liquidity coupled with a change to the requirement that the member adds 0.055% of total Consolidated Volume of non-displayed liquidity is reasonable because the reduced charge is designed to encourage additional posted liquidity that, in turn, will enable the Exchange to collect additional fees to provide rebates and thereby attract contra order flow. Also, the amended parameter switching to total Consolidated Volume will allow a member's target activity levels to adjust with overall market volumes making such targets easier to reach during low share volume months and more difficult to reach during higher share volume months. However, the percent of total Consolidated Volume requirement approximately represents a similar level of volume on average as the previous parameter did

given the current Consolidated Volume requirement. Additionally, the Exchange further believes that the proposed change is equitably allocated and not unfairly discriminatory because all members can add liquidity to BX and the more liquidity a member adds the lower the charge because the member is improving the quality of the market by providing this additional liquidity.

The Exchange believes that the proposed change as to how a firm may become a QMM (Tier 1) by eliminating two of the ways to qualify as such, amending the third option to qualify as a QMM (Tier 1), and eliminating the QMM (Tier 2), are reasonable because the amending of the QMM program refines the incentive to BX member firms to enhance the quality of the market by providing meaningful improvement, to the benefit of all market participants. The Exchange also believes that the proposed amended criteria of the qualification standard to become a QMM (Tier 1) and the elimination of the QMM (Tier 2) qualification standard are reasonable and an equitable allocation because the proposed changes help to clearly define how a firm can become a QMM and eliminates requirements that firms were not reaching. Additionally, the Exchange believes that the proposed change further perfects the mechanism of a free and open market by refining and making more effective the means by which a member firm may qualify for this beneficial, market improving program. Accordingly, to the extent that the amended standard increases the number of member firms that qualify under the tier, market quality will increase. Also, the parenthetical with ''Tier 1'' following ''A Firm may become a Qualified Market Maker'' also will be eliminated since there will no longer be a Tier 2 and the Exchange believes that this change clarifies and eliminates the potential for confusion to the benefit of market participants. The Exchange believes that this clarification will promote market participants' understanding of the rule and its administration.

The Exchange also believes that the reduction to the credit from $0.0005 per share executed to $0.0002 per share executed for a retail order that receives price improvement (when the accepted price of an order is different than the executed price of an order) [15] and accesses non-Retail Price Improvement order with Midpoint pegging, as well as the reduction to the credit from $0.0017 per share executed to $0.0012 per share executed for a retail order that accesses other liquidity on the Exchange book, are reasonable because these reduced credits align them with the reduced charges collected from non-retail price improvement orders BX is also putting in place through this filing. The Exchange also believes that the proposed changes are equitably allocated and not unfairly discriminatory because the credit reductions apply uniformly to all members that previously had qualified to receive such a credit. Lastly, the Exchange believes that the correction of the non-substantive typographical error in Rule 7018(e) (changing ''that'' to ''than'') clarifies and eliminates the potential for confusion to the benefit of market participants. The Exchange believes that this clarification will promote market participants' understanding of the rule and its administration.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.[16] BX notes that it operates in a highly competitive market in which market participants can readily favor dozens of different competing exchanges and alternative trading systems if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, BX must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, BX believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the changes to fees and credits, as well as changes to membership and trading rights fees and the ERF, do not impose a burden on competition because the Exchange membership is optional and is the subject of competition from other exchanges. The reduced credits and charges are reflective of the intent to increase the order flow on the Exchange. For these reasons, the Exchange does not believe that any of the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets. Moreover, because there are numerous competitive alternatives to the use of the Exchange, it is likely that BX will lose market share as a result of the changes if they are unattractive to market participants.

Accordingly, BX does not believe that the proposed rule changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing change has become effective pursuant to Section 19(b)(3)(A) of the Act [17] and paragraph (f) of Rule 19b–4 [18] 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.

**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–BX–2015–022 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–BX–2015–022. 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

[15] As noted previously, the word ''that'' in the parenthetical has been changed to ''than'' to reflect the correction to a typographical error in the corresponding rule text.

[16] 15 U.S.C. 78f(b)(8).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f).

only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2015–022, and should be submitted on or before May 18, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2015–09628 Filed 4–24–15; 8:45 am]

**BILLING CODE 8011–01–P**

[19] 17 CFR 200.30–3(a)(12).

## SMALL BUSINESS ADMINISTRATION

### Military Reservist Economic Injury Disaster Loans; Interest Rate for Third Quarter FY 2015

In accordance with the Code of Federal Regulations 13—Business Credit and Assistance § 123.512, the following interest rate is effective for Military Reservist Economic Injury Disaster Loans approved on or after April 20, 2015.

Military Reservist Loan Program—4.000%

Dated: April 16, 2015.

**Joseph P. Loddo,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2015–09637 Filed 4–24–15; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Intent To Rule on Request To Release Airport Property at the St. George Airport, St. George, Utah

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of request to release airport property.

**SUMMARY:** The FAA proposes to rule and invite public comment on the release of land at St. George Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21), now 49 U.S.C. 47107(h)(2).

**DATES:** Comments must be received on or before May 27, 2015.

**ADDRESSES:** Comments on this application may be mailed or delivered to the FAA at the following address: Mr. John P. Bauer, Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Denver Airports District Office, 26805 E. 68th Avenue, Suite 224, Denver, Colorado 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Gary Esplin, City Manager, City of St. George, Utah, at the following address: Mr. Gary Esplin, City Manager, City of St. George, 175 East 200 North, St. George, Utah 84770.

**FOR FURTHER INFORMATION CONTACT:** Mr. Marc Miller, Colorado Engineer/Compliance Specialist, Federal Aviation Administration, Northwest Mountain Region, Denver Airports District Office, 26805 E. 68th Avenue, Suite 224, Denver, Colorado 80249–6361.

The request to release property may be reviewed, by appointment, in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA invites public comment on the request to release property at the St. George Airport under the provisions of the AIR 21 (49 U.S.C. 47107(h)(2)).

On April 20, 2015, the FAA determined that the request to release property at the St. George Airport submitted by the City of St. George meets the procedural requirements of the Federal Aviation Administration.

The following is a brief overview of the request:

The City of St. George is proposing the release from the terms, conditions, reservations, and restrictions on the remaining approximate 223 acres of the former airport. A 40 acre parcel of airport property had previously been released by an instrument of release dated June 11, 2013. Physical constraints of the airport site required the construction and opening of the Replacement Airport in 2011, approximately 15 miles to the east. The former St. George Airport was decommissioned on January 15, 2011. The former airport is no longer needed for aviation purposes and the release is to allow for the sale of the property so the proceeds from the sale can be used towards payment of the City's share of the costs associated with the Replacement Airport. The property will be sold as the market improves, at fair market value. Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon appointment and request, inspect the application, notice and other documents germane to the application in person at the St George Airport.

Issued in Denver, Colorado on April 20, 2015.

**John P. Bauer,**

*Manager, Denver Airports District Office .*

[FR Doc. 2015–09759 Filed 4–24–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Safety Advisory 2015–01]**

### Mechanical Inspections and Wheel Impact Load Detector Standards for Trains Transporting Large Amounts of Class 3 Flammable Liquids

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

**ACTION:** Notice of Safety Advisory.

**SUMMARY:** Recent derailments have occurred involving trains transporting large quantities of petroleum crude oil and ethanol. Preliminary investigation of one of these recent derailments involving a crude oil train indicates that a mechanical defect involving a broken tank car wheel may have caused or contributed to the incident. FRA is issuing this Safety Advisory to make recommendations to enhance the mechanical safety of the cars in trains transporting large quantities of flammable liquids. This Safety Advisory recommends that railroads use highly qualified individuals to conduct the brake and mechanical inspections and recommends a reduction to the impact threshold levels the industry currently uses for wayside detectors that measure

wheel impacts to ensure the wheel integrity of tank cars in those trains.

**FOR FURTHER INFORMATION CONTACT:** Ron Hynes, Director, Office of Safety Assurance and Compliance, Office of Railroad Safety, FRA, 1200 New Jersey Avenue SE., Washington, DC 20590, telephone (202) 493–6404; or, Thomas Herrmann, Assistant Chief Counsel for Safety, Office of Chief Counsel, FRA, 1200 New Jersey Avenue SE., Washington, DC 20590, telephone (202) 493–6036.

**SUPPLEMENTARY INFORMATION:**

## Background

The overall safety of railroad operations, including shipments of hazardous materials, has improved in recent years. However, the July 2013 derailment in Lac-Mégantic, Quebec, Canada, demonstrates the potentially catastrophic consequences of a railroad accident resulting in the sudden release of large quantities of Class 3 flammable liquids. Since that accident, there have been a number of derailments with subsequent fires and evacuations in the United States involving trains transporting large quantities of Class 3 flammable liquids (specifically, crude oil and ethanol). Although none of the recent derailments in this country have resulted in the tragic loss of life that occurred as a result of the Lac-Mégantic derailment, recent events have led DOT and FRA to thoroughly evaluate and address the unique risks associated with the growing reliance on trains to transport large quantities of Class 3 flammable liquids.

For example, in the last two years, DOT (including FRA and the Pipeline and Hazardous Materials Safety Administration (PHMSA)) has taken numerous actions to address the safe transportation by rail of Class 3 flammable liquids. Among other actions, DOT has issued three emergency orders [1] and several safety advisories, reached voluntary agreements with the railroad industry,[2] and undertaken several separate rulemaking proceedings to address the transportation and handling of trains transporting large quantities of Class 3 flammable liquids. Notably, PHMSA, in cooperation with FRA, is nearing completion of a comprehensive final rule that will enhance the safe transportation of large quantities of Class 3 flammable liquids by rail. The final rule will build on proposals contained in the Notice of Proposed Rulemaking (NPRM) in the HM–251 rulemaking proceeding (79 FR 45016, Aug. 1, 2014).[3] The final rule was submitted to the Office of Management and Budget (OMB) for review pursuant to Executive Order 12866 on February 5, 2015 (*http://www.reginfo.gov/public*). A chronology of various DOT actions to address safe transportation of flammable liquids is listed on PHMSA's Internet Web site.[4]

Despite ongoing efforts by DOT, the railroad industry, tank car manufacturers, and other interested parties, the United States has experienced the derailment of several trains transporting large quantities of Class 3 flammable liquids (*i.e.,* ''high-hazard flammable trains'' or HHFTs) over just the past three months. (For purposes of this Safety Advisory a HHFT is a train comprised of 20 or more loaded tank cars of a Class 3 flammable liquid in a continuous block or 35 or more loaded tank cars of a Class 3 flammable liquid across the entire train.) These incidents occurred in Iowa, West Virginia, and Illinois. FRA's preliminary investigation indicates that the recent derailment in Illinois may have occurred as a result of a wheel break occurring on a railroad tank car loaded with petroleum crude oil.

## Galena, Illinois Derailment

The following is an overview of the circumstance surrounding the most recent notable derailment involving a HHFT. The probable cause of this derailment has not yet been established by FRA. Accordingly, nothing in this Safety Advisory is intended to attribute a definitive cause(s) to this incident, or to place responsibility for the incident on the acts or omissions of any specific person or entity.

On March 5, 2015, an eastbound BNSF Railway Co. (BNSF) train consisting of 103 tank cars loaded with Bakken crude oil (petroleum crude oil, UN 1267, 3, PG I) derailed near Galena, Illinois, resulting in a fire. The train was traveling from North Dakota to Philadelphia, Pennsylvania. The train was traveling at an approximate speed of 23 mph when 21 loaded tank cars derailed. As a result of the derailment, petroleum crude oil was released and a fire ensued. Seven cars experienced catastrophic thermal tears, three cars released product through their bottom outlet valves, and two cars released product from their top fittings. The derailment occurred in a rural area only a few hundred feet from the Mississippi River. FRA's preliminary investigation indicates that a broken wheel on one of the loaded tank cars in the train may have caused the derailment.

In addition to the above-described incident, previous publicized derailments resulting in releases of crude oil or ethanol and/or resulting fires have occurred with increasing frequency (*e.g.,* Dubuque, Iowa; Mt. Carbon, West Virginia; Casselton, North Dakota; Aliceville, Alabama; Lynchburg, Virginia; Columbus, Ohio; Cherry Valley, Illinois; Arcadia, Ohio; New Brighton, Pennsylvania). Since February 2015, an additional three incidents occurred in Ontario, Canada, two of which involved HHFTs.

In light of FRA's preliminary findings with respect to the Galena, Illinois derailment (described further below), FRA believes that further industry action is necessary to ensure public safety. One area that FRA believes needs further industry consideration is the general mechanical condition of the equipment used in HHFTs. Thus, FRA is issuing this Safety Advisory to recommend that railroads take certain actions to ensure the safe mechanical condition of the tank cars used in HHFTs to prevent or identify defects that could lead to derailments.

## Derailment Causes

As discussed above, the most recent crude oil derailment occurred in March near Galena, Illinois. FRA's preliminary investigation indicates that a broken wheel on a tank car loaded with petroleum crude oil may have caused that derailment. Federal railroad safety regulations prohibit the use of railroad freight cars with certain wheel defects. 49 CFR 213.103. For example, flat spots on any freight car wheel that exceeds 2.5″ in length, or with two adjoining flat spots, each of which is more than two inches in length, would prohibit that car from being placed in a train and transported. 49 CFR 215.103(f). This safety requirement is intended to prevent derailments and damage to other mechanical or track components that might occur as a result of moving a railroad car with flat spots in a wheel(s).

With regard to wheels with flat spots, wheels with that particular defect impact the rail each time the flat portion of the wheel meets the rail as the wheel rotates. Flat spots or other wheel defects (built up tread) cause freight car wheels to be out-of-round and may ultimately cause a wheel to break. Further,

[1] DOT Emergency Restriction/Prohibition Order, Docket No. DOT–OST–2014–0067 (May 7, 2014); DOT Amended and Restated Emergency Restriction/Prohibition Order, Docket No. DOT–OST–2014–0025 (March 6, 2014); and, FRA Emergency Order No. 28, 78 FR 48218, Aug. 2, 2013.

[2] *http://www.dot.gov/briefing-room/letter-association-american-railroads.*

[3] *http://www.gpo.gov/fdsys/pkg/FR-2014-08-01/pdf/2014-17764.pdf.*

[4] *http://phmsa.dot.gov/hazmat/osd/chronology.*

excessive wheel impacts caused by out-of-round wheels can cause rails to crack or break. Track defects are one of the leading causes of derailments. Several other notable derailments involving large quantities of flammable liquids that have occurred in this country so far this year (near Dubuque, Iowa and Mt. Carbon, West Virginia, respectively) are believed to have been track-caused, as was the 2014 crude oil train derailment that occurred in Lynchburg, Virginia. FRA is not asserting that these incidents were caused by flat spots on wheels or other mechanical defects, but only that that wheel defects can cause derailments and can damage track to the point that a rail breaks and causes a derailment. FRA's intent in publishing this Safety Advisory is to address the mechanical condition of tank cars used in HHFTs to avoid or identify mechanical defects that may lead to derailments, regardless of whether the ultimate cause of an accident is the result of a mechanical, track, or other defect.

**Wheel Impact Load Detectors**

Technology has enabled railroads to use additional means to learn of defects to freight cars and railroad track structures than were previously available. In relation to the issues in this Safety Advisory, the use of wayside detectors has specifically enabled railroads to identify certain wheel defects and prevent derailments before they occur. For example, hot wheel/box detectors have long been used to alert railroads and their train crews about potential wheel or axle problems while a train is enroute, such that the train can be inspected and cars with dangerous conditions removed from the train. Railroads also employ Wheel Impact Load Detectors (WILD) along their rights of way. These detectors identify wheels on a railcar that may have flat spots or other defects before a wheel can cause damage to railroad track structures.[5]

The Association of American Railroads (AAR) has established industry-wide standards regarding how freight cars with wheels that have peak vertical load (kips) above certain thresholds should be handled. *See e.g.,* 2015 Field Manual of the AAR Interchange Rules. AAR guidance (Rule 41) states that when a freight car's wheel registers an impact on a wayside WILD of 65 kips or more, that the car's owner receives notification of that reading. When a wheel registers from 80 to 89 kips on a WILD, that wheel is condemnable and may be replaced when the car is on a shop or repair track for any other reason. Any wheel that registers over 90 kips is condemnable and may be replaced at any time. FRA also understands that some railroads have adopted procedures that set an additional upper threshold whereby a reading above a certain level (140 kips) would require the train in which the car is traveling to be stopped, and the car removed from the train to be repaired immediately before further movement. FRA's investigation of the recent incident near Galena, Illinois indicates that the train in question had passed over a WILD within approximately 130 miles before derailing. It appears that the car that potentially caused the derailment registered 83.87 kips on that WILD (while another car in the train registered 96 kips). A month earlier, on February 2, 2015, the car that potentially caused the derailment also registered over 80 kips while passing over two separate WILDs. Under AAR interchange rules, the option existed for the car to have had a problematic wheel replaced when the car was next on a repair track, while the car that registered 96 kips could have continued in transportation but been replaced at any time.

FRA continues to encourage the industry to implement this type of advanced wayside detection equipment and applauds the industry for its continued efforts to utilize the technology across the rail network. However, in light of the significant increases in the amount of Class 3 flammable liquids being transported by rail over the last few years and because wheel defects are known not only to cause derailments but also to cause significant damage to rails, FRA is recommending that railroads (and AAR via amendment to its interchange rules) lower the impact threshold for action to replace the wheels on any car in a HHFT specified below. FRA is recommending adjustment to the following threshold levels:

- 60 kips—issue maintenance advisory for the affected car;
- 70 kips—change the wheel at the tank car's next visit to a repair or shop track;
- 80 kips—condemn the wheel and replace at the first opportunity; and
- 120 kips—immediately stop the train to inspect the wheel and remove the car from service at the first available location.

FRA believes that in light of the significant increase in the number of HHFTs and the catastrophic consequences that can result when one of these trains experience a derailment, the industry needs to provide special attention to the mechanical condition of the tank cars being hauled in these trains. This is especially important while newer, more robust tank car standards are being developed. The adjustments recommended above may enable railroads to identify and replace wheel defects that could cause derailments much sooner than under the existing industry guidelines. FRA also continues to encourage the installation of additional WILD and other wayside detectors that might help prevent train derailments.

FRA is aware that the speed at which a train travels over a WILD may impact the readings that are generated (*e.g.,* a car traveling at lower speed may result in a much lower WILD reading than when the same car travels over a WILD at a higher speed). However, railroads should not operate HHFTs over a WILD below normal operating speeds to avoid an elevated WILD reading. FRA also encourages railroads to use electronic data interchange so that a railroad transporting a tank car in an affected train would have access to WILD readings generated by other railroads that have previously transported that car.

**Mechanical Inspections**

Another area FRA believes industry could address to ensure the safe mechanical condition of rail cars used in HHFTs is mechanical inspections. Existing Federal railroad safety regulations that address mechanical and inspection requirements for freight cars are primarily found in 49 CFR parts 215 and 232. To detect mechanical defects such as wheels defects (before trains depart a terminal or point of origin) railroads are required to inspect railroad freight cars prior to transporting them in a train. 49 CFR 215.13. These inspections are referred to as pre-departure inspections and are typically performed by a designated inspector under § 215.11. Section 215.11 requires that a designated inspector demonstrate the knowledge and ability to inspect railroad freight cars to determine compliance with 49 CFR part 215, including the ability to detect wheel defects under § 215.103. However, if a designated inspector is not on duty, a railroad may use another person, often a train crew member, to perform an abbreviated inspection intended to detect readily discoverable defects (such as a cracked or broken wheel). These inspections are often referred to as ''Appendix D'' inspections. *See* appendix D to 49 CFR part 215.

In light of recent derailments involving HHFTs and the potential consequences of any future derailments,

[5] *See http://freightrailworks.org/wp-content/uploads/safety2.pdf.*

FRA is recommending that any HHFT traveling long distances have a pre-departure inspection performed by a designated inspector. Designated inspectors are typically mechanical employees. Unlike train crew members or other railroad employees, designated inspectors' duties primarily relate to the detection and remedy of mechanical defects on railroad rolling equipment. FRA believes that designated inspectors are better trained, equipped, and experienced to detect mechanical defects on rail cars that may lead to derailments than railroad employees whose duties primarily involve other tasks, such as operating trains. Thus, FRA believes safety is improved by using only designated inspectors to perform pre-departure inspections of HHFTs.

In addition to the required pre-departure inspection that is performed on trains to determine compliance with part 215, trains also must undergo an air-brake and other mechanical-related inspections prior to transportation under 49 CFR part 232. In 2001, FRA promulgated a final rule (66 FR 4104) that established minimum inspection standards for ''extended haul'' trains that travel long distances (up to 1,500 miles). 49 CFR 232.213. Railroads typically use the standards in § 232.213 to identify, inspect, and operate unit trains that travel long distances across the United States, such as coal trains and high priority intermodal trains. FRA believes that trains can be transported safety over such long distances if, among other requirements, quality mechanical inspections are performed to ensure that all air brakes in a train are operative at the point of origin, and that no mechanical defects exist prior to the train's departure. As explained in the final rule, § 232.213 contains ''stringent inspection requirements, both brake and mechanical, by highly qualified inspectors'' that ensure the safety of trains operated over long distances under that section's requirements. 66 FR 4121.

The brake inspection applicable to an extended haul train must be performed by a ''qualified mechanical inspector'' (QMI) as defined by § 232.5, while the part 215 inspection is required to be performed by a designed inspector under § 215.11 as discussed above. A QMI is required to receive instruction and training on the ''troubleshooting, inspection, testing, maintenance or repair of the specific train brake components and systems for which the person is assigned responsibility.'' 49 CFR 232.5. FRA believes that QMIs (versus other employees such as train crew members) possess the skill to perform high quality inspections and can identify defective conditions, know how those defects might affect other parts of the freight car's brake or mechanical systems, and know how such defects might be caused. 66 FR 4148.

In evaluating the recent incidents involving HHFTs, many of the trains were traveling uninterrupted (such as for reclassification at a yard) for long distances. For example, the recent crude oil derailments have involved trains transporting product from its source in North Dakota to refineries on the coasts—in some instances distances of well over 1,000 miles. FRA recognizes that many railroads already move these long distance trains as extended haul trains and conduct the mechanical and brake inspections discussed above. To assure the safety of HHFTs that might travel long distances, FRA recommends that such trains receive mechanical and brake inspections conducted by QMIs and designated inspectors. FRA believes that having these critical inspections conducted by highly qualified inspectors at the point where such trains are initiated will help ensure the safe mechanical condition of these trains.

In seeking the appropriate approach to ensuring safety, FRA has also limited the recommendations in this Safety Advisory to HHFTs only and would have applied to all of the recent incidents described above. This threshold ensures that FRA is focusing on the highest risk shipments and not unnecessarily making safety-related recommendations that would impose undue burdens on lesser risks that do not represent the same safety and environmental concerns. However, FRA also supports additional safety-related inspections or measures that railroads wish to adopt, irrespective of commodity being hauled or the type of operation.

*Recommended Railroad Action:* In light of the above discussion, FRA recommends for any HHFT that railroads:

(1) Continue to install and maintain Wheel Impact Load Detectors (WILD) along routes traveled by affected trains, and adjust the existing industry standards for actions to be taken when wayside WILDs detect an impact above a certain threshold for an affected train. If a railroad receives notification of a wheel impact for a car in an affected train above the below-listed thresholds, at a minimum, take the following actions:

- 60 kips—issue maintenance advisory to the car owner of the affected car;
- 70 kips—change the wheel at the tank car's next movement onto a repair or shop track;
- 80 kips—condemn the wheel and replace it at the first opportunity; and
- 120 kips—immediately stop the train to inspect the wheel and remove the car from service at the first available location.

(2) Conduct initial terminal brake inspections by qualified mechanical inspectors as defined in 49 CFR 232.5 and conduct freight car inspections at initial terminals with designated inspectors under 49 CFR 215.11 for any affected train that will travel 500 miles or more from its initial terminal to destination.

FRA encourages railroad industry members to take actions that are consistent with the preceding recommendations and to take other complementary actions to help ensure the safety of the Nation's railroad employees. FRA may modify this Safety Advisory, issue additional safety advisories, or take other appropriate actions necessary to ensure the highest level of safety on the Nation's railroads, including pursuing other corrective measures under its rail safety authority.

**Sarah Feinberg,**

*Acting Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[FRA Emergency Order No. 30, Notice No. 1]**

### Emergency Order Establishing a Maximum Operating Speed of 40 mph in High-Threat Urban Areas for Certain Trains Transporting Large Quantities of Class 3 Flammable Liquids

**SUMMARY:** FRA is issuing this Emergency Order (E.O. or Order) to require that trains transporting large amounts of Class 3 flammable liquid through certain highly populated areas adhere to a maximum authorized operating speed limit. FRA has determined that public safety compels issuance of this Order. This Order is necessary due to the recent occurrence of railroad accidents involving trains transporting petroleum crude oil and ethanol and the increasing reliance on railroads to transport voluminous amounts of those hazardous materials in recent years. Under the E.O., an affected train is one that contains: (1) 20 or more loaded tank cars in a continuous block, or 35 or more loaded tank cars, of Class

3 flammable liquid; and, (2) at least one DOT Specification 111 (DOT–111) tank car (including those built in accordance with Association of American Railroads (AAR) Casualty Prevention Circular 1232 (CPC–1232)) loaded with a Class 3 flammable liquid. Affected trains must not exceed 40 miles per hour (mph) in high-threat urban areas (HTUAs) as defined in 49 CFR 1580.3.

**DATES:** *Effective Date:* This Order is effective immediately. Railroads shall immediately initiate steps to implement FRA Emergency Order No. 30. Railroads shall complete implementation no later than April 24, 2015.

**FOR FURTHER INFORMATION CONTACT:** Ron Hynes, Director, Office of Safety Assurance and Compliance, Office of Railroad Safety, FRA, 1200 New Jersey Avenue SE., Washington, DC 20590, telephone (202) 493–6404; or, Thomas Herrmann, Assistant Chief Counsel for Safety, Office of Chief Counsel, FRA, 1200 New Jersey Avenue SE., Washington, DC 20590, telephone (202) 493–6036.

*Introduction:* FRA has determined that public safety compels issuance of this E.O.. This Order sets the maximum authorized operating speed of 40 mph for certain trains transporting large quantities of Class 3 flammable liquids within HTUAs.[1] FRA finds that this action is necessary as a result of the unique risks associated with the growing reliance on trains to transport large quantities of flammable liquids. The risk of flammability is compounded in the context of rail transportation because petroleum crude oil and ethanol are commonly shipped in large blocks or single commodity unit trains. Further, the differing tank cars currently available to transport petroleum crude oil and ethanol in this country have varying levels of protection, with the most commonly used tank cars having shown a propensity to puncture or otherwise release hazardous material that catches fire in the event of a derailment.

DOT's Pipeline and Hazardous Materials Safety Administration (PHMSA) has developed a final rule that will contain enhanced tank car standards for both new and existing tank cars and certain speed restrictions. Until those standards are issued, FRA believes that public safety dictates that an appropriate speed restriction be placed on trains containing large quantities of flammable liquid, particularly in areas where a derailment could cause a significant hazard of death, personal injury, or harm to the environment and property.

Since the July 2013 derailment in Lac-Mégantic, Quebec, Canada, which demonstrated the consequences of a railroad accident resulting in the sudden release of flammable liquids, there have been numerous derailments in the United States involving trains transporting large quantities of crude oil and ethanol. Although none of these recent derailments resulted in the tragic loss of life that occurred as a result of the Lac-Mégantic derailment, the pattern of derailments and resulting hazardous material releases and fires involving tank cars transporting flammable liquids lead FRA to the conclusion that additional action is necessary in highly populated areas where any such derailment could result in catastrophic consequences. This action is being taken to eliminate an unsafe condition or practice, or a combination of such, causing an emergency situation involving the hazard of death, personal injury, or significant harm to the environment.

This Order applies to:

(1) Any train in the United States transporting 20 or more loaded tank cars in a continuous block, or containing 35 or more loaded tank cars, of Class 3 flammable liquid; and

(2) Which contains at least one DOT–111 tank car (including those built to the CPC–1232 standard) loaded with Class 3 flammable liquid.

FRA believes that only trains transporting large quantities of petroleum crude oil and ethanol (Class 3 flammable liquids described by DOT's Hazardous Materials Regulations (HMR; 49 CFR parts 171 to 180)) will be affected by this Order as those are the only Class 3 flammable liquids transported in this quantity. FRA is ordering that any affected train adhere to a maximum authorized operating speed limit of 40 mph in HTUAs as defined in 49 CFR 1580.3.

*Authority:* Authority to enforce Federal railroad safety laws has been delegated by the Secretary of Transportation to the Administrator of the FRA. 49 CFR 1.89. Railroads are subject to FRA's safety jurisdiction under the Federal railroad safety laws. 49 U.S.C. 20101, 20103. FRA is authorized to issue emergency orders where an unsafe condition or practice, or a combination therof, ''causes an emergency situation involving a hazard of death, personal injury or significant harm to the environment . . . .'' 49 U.S.C. 20104(a). These orders may immediately impose ''restrictions and prohibitions . . . that may be necessary to abate the situation.'' *Id.*

*Background:* In the last two years, DOT (including FRA and PHMSA) has taken numerous actions to address the safe transportation by rail of flammable liquids. Among other actions, DOT has issued three emergency orders [2] and several safety advisories, has reached voluntary agreements with the railroad industry,[3] and has undertaken several separate rulemaking proceedings to address the transportation and handling of trains transporting large quantities of flammable liquids. Notably, PHMSA, in cooperation with FRA, has formulated the final rule mentioned above that will address issues including a new HMR tank car standard and speed limits governing the transportation of large quantities of flammable liquids. The final rule will codify certain proposals contained in the Notice of Proposed Rulemaking (NPRM) in the HM–251 rulemaking proceeding (79 FR 45016, Aug. 1, 2014).[4] The final rule was submitted to the Office of Management and Budget (OMB) for review pursuant to Executive Order 12866 on February 5, 2015 (*http://www.reginfo.gov/public*). A chronology of certain DOT actions to address safe transportation of flammable liquids is listed on PHMSA's Internet Web site.[5]

Despite efforts by DOT, the railroad industry, tank car manufacturers, and other interested parties, trains transporting large quantities of petroleum crude oil and ethanol continue to derail in this country. These derailments have resulted in the release of large quantities of hazardous material and subsequent fires. In addition to the 2013 Lac-Mégantic derailment mentioned above in which 47 people were killed, numerous derailments involving crude oil unit and ethanol trains have occurred in this country. Three significant accidents have occurred domestically already in 2015 in Iowa, West Virginia, and Illinois, respectively.

## 2015 Accidents

The following is an overview of the circumstance surrounding the most recent derailments involving trains

[1] HTUA is defined by the Transportation Security Administration as ''an area comprising one or more cities and surrounding areas include a 10-mile buffer zone, as listed in appendix A to [part 1580].'' 49 CFR 1580.3. Appendix A to part 1580 lists the specific metropolitan areas within the United States that are considered HTUAs.

[2] DOT Emergency Restriction/Prohibition Order, Docket No. DOT–OST–2014–0067 (May 7, 2014); DOT Amended and Restated Emergency Restriction/Prohibition Order, Docket No. DOT–OST–2014–0025 (March 6, 2014); and, FRA Emergency Order No. 28, 78 FR 48218, Aug. 2, 2013.

[3] *http://www.dot.gov/briefing-room/letter-association-american-railroads.*

[4] *http://www.gpo.gov/fdsys/pkg/FR-2014-08-01/pdf/2014-17764.pdf.*

[5] *http://phmsa.dot.gov/hazmat/osd/chronology.*

transporting large amounts of crude oil or ethanol that have occurred in 2015. FRA has not definitively established the probable causes of these accidents. Accordingly, nothing in this Order is intended to attribute definitive causes to these accidents, or to place responsibility for the accidents on the acts or omissions of any specific person or entity.

On February 4, a southbound Canadian Pacific Railway Co. (CP) train consisting of three locomotives, 1 buffer car loaded with sand, and 80 tank cars loaded with ethanol derailed near Dubuque, Iowa while traveling approximately 24 mph. As a result there was an ethanol spill, a fire, and at least two loaded tank cars came to rest on the frozen Mississippi River. Legacy DOT–111 cars were among the seven cars that released ethanol during the incident. One non-jacketed CPC–1232 car was punctured. It is estimated that approximately 53,000 gallons of ethanol was released as a result of the derailment.

On February 16, 2015, a CSX Transportation, Inc. (CSX) train consisting of 109 tank cars loaded with crude oil derailed near Mt. Carbon, West Virginia. The train was en route to a shipping terminal in Yorktown, Virginia, and was transporting crude oil sourced from the Bakken region (Bakken oil) and traveling at an approximate speed of 33 mph when 28 cars derailed. Two tank cars were punctured, thirteen cars experienced catastrophic thermal tears, and two cars released crude oil through their bottom outlet valves. Multiple fires and explosions occurred and emergency responders established a one-half mile evacuation zone, involving approximately 300 people. In all, the tank cars lost a total of almost 379,000 gallons of crude oil. All of the tank cars involved in this accident were CPC–1232 tank cars built between 2011 and 2013 and were non-jacketed tank cars.

Most recently, on March 5, 2015, a BNSF Railway Co. (BNSF) train consisting of 103 tank cars also loaded with Bakken crude oil derailed near Galena, Illinois, resulting in a fire. The train was traveling at an approximate speed of 23 mph when 21 cars derailed. Seven cars experienced thermal tears, three cars released product through their bottom outlet valves, and two cars released product from their top fittings. All of the tank cars involved in this accident were constructed to the CPC–1232 standard, and were non-jacketed. FRA notes that no cars were punctured as a result of this derailment.

In addition to the above-described incidents, previous publicized derailments resulting in releases of crude oil or ethanol and and/or resulting fires have occurred with increasing frequency (*e.g.,* Casselton, North Dakota; Aliceville, Alabama; Lynchburg, Virginia; Columbus, Ohio; Cherry Valley, Illinois; Arcadia, Ohio; New Brighton, Pennsylvania). Since February 2015, an additional three incidents have occurred in Ontario, Canada, two of which involved trains transporting large quantities of petroleum crude in loaded CPC–1232 tank cars that were punctured, one of which occurred at a train speed of over 40 mph. Some of these recent accidents listed above that occurred prior to 2015 have been the impetus for DOT regulatory actions, such as the recent DOT emergency orders and the HM–251 rulemaking proceeding mentioned above. Rail incidents involving crude oil have also been the subject of several National Transportation Safety Board (NTSB) investigations and subsequent NTSB recommendations to DOT.

**Tank Cars**

Traditionally, DOT–111 cars have been the primary type of tank cars used to transport large quantities of flammable liquids such as petroleum crude oil and ethanol in this country. Part 173 of the HMR authorizes the DOT–111 as a permissible packaging to transport ethanol and crude oil, as well as certain other low, medium, and high-hazard liquids and solids. DOT–111 cars are general purpose, non-pressure railroad tank cars. Subpart D of 49 CFR part 179 in the HMR establishes the design requirements for DOT–111 cars. Baseline (legacy) DOT 111 tank cars have traditionally been designed to operate at a gross rail load of 263,000 pounds, and additional tank car protections intended to improve crashworthiness, such as head shields, jackets, and thermal protection systems, are optional features. DOT–111 cars are required to have a shell and head thickness of 7/16″.

However, there have been changes in railroad operations over the last several years that have impacted the use of DOT–111 cars to transport flammable liquids. These changes primarily include (1) increased DOT–111 traffic due the rapid increase in production levels of domestic energy products such as petroleum crude oil, (2) higher in-train forces due to the transportation of hazardous materials in tank cars at higher gross rail loads (286,000 lbs.), and (3) the likelihood of tank cars accumulating more miles annually. This has resulted in tank car design modifications to accommodate these increased stresses and to reduce the chance of a catastrophic tank car failure.

However, despite those efforts, a significant number of older, legacy DOT–111 tank cars remain in flammable liquid service. In the HM–251 NPRM, DOT estimated that over 50,000 such non-jacketed DOT–111 cars (and an estimated 5,500 jacketed DOT–111 cars (79 FR 45025)) were still being used in crude oil and ethanol service as of August 2014.[6] FRA is aware that the number of CPC–1232 and DOT–111 cars in crude oil service is variable, as new cars are currently being constructed and older cars are retired.

The NTSB has described DOT–111 tank cars as having ‘‘. . . a high incidence of failure when involved in accidents,’’ [7] and has recommended that DOT update the design requirements for DOT–111 tank cars, including for use in crude oil and ethanol service specifically.[8] The NTSB recommendations were made with the intent to enhance the cars' performance in accidents.[9] The forthcoming HM–251 rulemaking will address certain of these NTSB recommendations.

In 2011, the rail industry, through CPC–1232, adopted a new industry standard intended to improve the crashworthiness of newly-constructed DOT–111 tank cars intended for use in crude oil and ethanol service. Cars built to the CPC–1232 standard are DOT–111 cars that are designed to operate at a gross rail load of 286,000 pounds, and include a thicker shell and head protection (½ height head shield, ½″ thick shell and head thickness), are constructed with normalized steel, are constructed with top fittings protection, and with relief valves having a greater flow capacity as when compared to legacy DOT–111 cars. Additionally, some new tank cars constructed to the CPC–1232 standard are also jacketed and equipped with insulation and/or thermal protection. The jacket is ⅛″ thick around the shell and ½″ thick at the heads providing full-height head protection.

Based on recent railroad accidents, the risk of additional future accidents, and the NTSB's findings that DOT–111 cars have a propensity to fail when involved in accidents, FRA has a safety concern regarding the continued use of a large number of DOT–111 cars to

[6] *Id.*

[7] Derailment of CN Freight Train U70691–18 With Subsequent Hazardous Materials Release and Fire, Cherry Valley, Illinois June 19, 2009; NTSB Accident Report NTSB/RAR–12–01 (Feb. 14, 2012); *http://www.ntsb.gov/investigations/AccidentReports/Reports/RAR1201.pdf.*

[8] *Id.*

[9] *Id.*

transport large quantities of crude oil and ethanol, especially at higher speeds. Under current Federal regulations and applicable railroad industry practices, unit trains containing these older non-jacketed DOT cars may travel in flammable liquid unit trains at up to 50 mph in this country, and at speeds of up to 40 mph in populated urban areas under certain circumstances (as further discussed below).

FRA's safety concern also extends to the newer CPC–1232 tank cars in light of recent incidents, especially those incidents occurring at higher speeds. FRA notes that a total of only five tank cars were punctured as a result of the 2015 accidents in Iowa and West Virginia. No CPC–1232 cars were punctured as a result the Galena, Illinois derailment, and only one CPC–1232 tank car was punctured as a result of the 2014 Lynchburg, Virginia, derailment (23 mph). However, these accidents indicate that the newer CPC–1232 cars will still release hazardous material which catches fire when the cars derail.

**Train Speed**

Speed is a factor that may contribute to the severity of a derailment or the derailment itself. Speeds can influence the probability of an accident. A lower speed may allow for a brake application to stop a train before a collision, or allow a locomotive engineer to identify a safety problem and stop the train before an accident or derailment occurs. Higher speeds will increase the kinetic energy of an accident or derailment and the associated damage caused, resulting in a greater possibility of tank cars being punctured. For example, the unmanned train that derailed and caught fire in the Lac-Mégantic derailment was believed to have been traveling at over 60 mph at the time of the incident, resulting in approximately 59 tank car being breached. As explained in the HM–251 NPRM, if an accident occurs at 40 mph instead of 50 mph, DOT expects a reduction in kinetic energy of 36 percent. 79 FR 45046. As discussed above, the most recent derailment in the United States near Galena, Illinois, that occurred at 23 mph resulted in no tank cars being punctured, and the 2014 Lynchburg derailment that occurred at a similar speed only resulted in one CPC–1232 tank car puncture.

Generally, with respect to operating speeds, FRA has developed a system of classification that defines different track classes based on track quality. The track classes include Class 1 through Class 9 and ''excepted track.'' *See* 49 CFR 213.9 and 213.307. Freight trains transporting hazardous materials, including crude oil, operate at track speeds associated with Class 1 through Class 5 track and, in certain limited instances, at or below ''excepted track'' speeds (10 mph or less up to 80 mph). However, AAR design specifications effectively limit most freight equipment to a maximum allowable speed of 70 mph. The HMR contain speed restrictions on railroad cars transporting loads of certain hazardous materials, such as material poisonous-by-inhalation. *See, e.g.,* 49 CFR 174.86.

In addition, the rail industry, through AAR, implements a detailed protocol on recommended operating practices for the transportation of hazardous materials. This protocol, set forth in AAR Circular No. OT–55–N, August 5, 2013 (Circular) [10] includes a 50 mph maximum speed for any ''key train.'' The Circular establishes that a key train includes any train with 20 or more loads of ''any combination of hazardous material.'' This definition includes trains affected by this Order that transport large quantities of petroleum crude oil and ethanol. In February 2014, by way of Secretary of Transportation Anthony Foxx's letter to AAR,[11] the major railroads in this country voluntarily committed to a lower 40-mph speed limit for trains containing one or more legacy DOT–111 tank cars (or one non-DOT specification car) and transporting large quantities of crude oil within the limits of any HTUA as defined by the regulations of the Transportation Security Administration.

In addition, FRA is aware that the nation's second largest freight railroad, BNSF, recently took steps to lower the speeds of key trains in populated areas. BNSF recently amended its railroad rules to require that key trains traveling within large municipal areas travel no more than 35 mph, or an even lower speed and in more locations than they, other Class I railroads, AAR, and some short line railroads committed to in response to Secretary Foxx's February 2014 letter described above.

PHMSA requested public comment on appropriate speed limits for trains transporting large quantities of certain flammable liquids in the HM–251 NPRM, and will address train speeds in the forthcoming final rule. As discussed above, PHMSA will also address updated tank car standards as related to the transportation of flammable liquids by rail. However, any lowered speed requirements in the forthcoming PHMSA rule will not be applicable until the effective date of the final rule. In the interim, FRA believes that further action is necessary to ensure public safety.

While FRA applauds the industry for its voluntary commitments related to speed reductions, FRA believes that it is necessary for it to require that the existing industry commitments be applied to all trains carrying large quantities of Class 3 flammable liquids, including those transporting newer CPC–1232 cars. FRA believes that immediately lowering maximum train speeds in HTUAs to all trains carrying large quantities of flammable liquids will help to mitigate the potential effects of future accidents should they occur in a highly populated area. Despite the efforts of all stakeholders, these accidents continue to occur on a regular basis. While accidents involving affected trains have recently occurred at speeds below 40 mph, FRA anticipates that the reduction in maximum speed for certain trains carrying large volumes of flammable liquid in higher risk areas based on the type of tank car being used may prevent fatalities and other injuries and damages, and limit the amount of environmental damage that would likely result were an accident to occur in one of these densely populated areas. HTUA's encompass locales where, were a derailment to occur, there is a greater chance that a catastrophic loss of human life could occur than in other less populated areas. Further, by limiting speeds for certain higher risk trains, FRA also hopes to reduce in-train forces related to acceleration, braking, and slack action that are sometimes the cause of derailments.[12] FRA believes these restrictions are necessary until the HM–251 final rule is issued and becomes effective.

FRA's approach here is based on longstanding concerns regarding the crashworthiness of legacy DOT–111 cars, as evidenced by NTSB and FRA investigations of derailments involving trains consisting of large blocks or unit trains of tank cars containing flammable liquids. A recent FRA study, involving a tank car puncture model validated by full scale testing was conducted at the Transportation Technology Center in Pueblo, Colorado.[13] The study evaluated the relative performance of a variety of DOT–111 tank cars, including those that are the subject of this E.O. In addition, a soon to be released report issued in March 2015 by Sharma & Associates,

[10] *http://www.boe.aar.com/CPC-1258%20OT-55-N%208-5-13.pdf.*

[11] *http://www.dot.gov/briefing-room/letter-association-american-railroads.*

[12] *See, e.g.,* FRA Report to the Senate Committee on Commerce, Science and Transportation and the House Committee on Transportation and Infrastructure: Safe Placement of Train Cars (June 2005).

[13] *http://www.fra.dot.gov/eLib/details/L15900#p6_z50_gD; http://www.fra.dot.gov/eLib/details/L15901#p6_z50_gD.*

Inc. to FRA, addressed the reduction in tank car puncture probabilities based on changes to tank car designs or the tank car operating environment. FRA expects to post this report to its Web site in the near future. The report discusses the fact that tank cars are exposed to a wide range of hazards during derailments that affect the outcomes. It also discusses the assumption that higher derailment speeds tend to lead to ''more cars derailing as well as higher magnitudes of forces, and thereby, a higher probability of puncture.'' The study estimated derailment impacts at 30, 40, and 50 mph, respectively, as applied to tank cars equipped with varying protections. The results of the study indicate more likely tank car punctures occur as accident speeds increase.

Accordingly, FRA is limiting speeds for affected trains to 40 mph. Recent accidents involving unit trains of crude oil indicate that these legacy DOT–111 cars are prone to punctures, tears, and hazardous material releases when involved in accidents. Newer tank cars built to the CPC–1232 standard have more robust protections than do legacy DOT–111 tank cars. However, recent incidents have shown that those cars will still release hazardous material when involved in derailments. Thus, FRA is also limiting the speed for affected trains transporting CPC–1232 cars to 40 mph or less. While past accidents have shown that there still may be hazardous material releases when derailments occur at less than 40 mph, FRA believes this speed restriction will substantially mitigate the effects of any accidents as when compared to accidents that occur at higher speeds.

To formulate the speed limitation for certain trains, FRA balanced the need to alleviate an emergency situation involving a hazard of death, personal injury, or significant harm to the environment against the impacts speed limitations may have on efficient rail transportation in this country. An analysis of certain speed restrictions below 40 mph indicated that such restrictions could potentially cause harmful effects on interstate commerce, and actually increase safety risks. Increased safety risks could occur if speed restrictions cause rail traffic delays resulting in trains stopping on main track more often and in trains moving into and out of sidings more often requiring more train dispatching. Increased safety risks could also occur if shippers offer more affected trains onto the rail network to maintain constant inventories to offset train delays. FRA also evaluated speed restrictions in the context of potential delays to passenger rail service. FRA believes the restriction in this Order will address an emergency situation while avoiding other safety impacts and harm to interstate commerce and the flow of necessary goods to the citizens of the United States. FRA and DOT will continue to evaluate whether additional action with regard to train speeds is appropriate.

The speed restriction in this Order applies to trains transporting DOT–111 and CPC–1232 cars that pose dangers in a derailment. In seeking the appropriate approach to ensure safety, FRA has also limited this Order's applicability to only those trains transporting large quantities of flammable liquids. This Order will primarily apply to unit trains only. Further, this Order would have applied to all of the recent incidents described above involving unit trains transporting petroleum crude oil and ethanol. This Order's threshold ensures that FRA is focusing on the highest risk shipments and not unnecessarily imposing safety-related burdens on lesser risks that do not represent the same safety and environmental concerns.

*Findings and Order:* Due to the recently increasing volume of petroleum crude oil, and consistently high volume of ethanol being shipped by railroads in recent years, the numerous recent rail accidents involving trains transporting these hazardous materials to occur, and the subsequent releases of large quantities of crude oil into the environment and the imminent hazard those releases present to human life and the environment, this Order is requiring that each railroad carrier in this country adhere to the below-described maximum speed limit when operating certain trains containing large quantities of Class 3 flammable liquid.

The transportation of hazardous materials by rail is extremely safe, and the vast majority of hazardous materials shipped by rail each year arrive at their destinations without incident. However, FRA finds that there are gaps in the existing regulatory scheme that create an emergency situation involving a hazard of death, personal injury, or significant harm to the environment, with respect to the speed at which trains transporting large quantities of certain flammable liquids are currently operated and the crashworthiness of the tank cars being used to transport those materials. The risks are magnified when less robust tank cars are used to transport large quantities of flammable liquids. As evidenced by recent accidents, even affected trains traveling at lower speeds have accidents with a propensity to result in fires and the release of large quantities of hazardous material.

To mitigate the effects of future accidents and to prevent others from occurring, and pursuant to the authority of 49 U.S.C. 20104, delegated to the FRA Administrator by the Secretary of Transportation (49 CFR 1.89), effective immediately, this Order requires that certain trains identified below must not exceed 40 mph while operating within High Threat Urban Areas. This Order applies to:

(1) Any train in the United States transporting 20 or more loaded tank cars in a continuous block, or containing 35 or more loaded tank cars, of Class 3 flammable liquid; and

(2) Which contains at least one DOT–111 tank car (including those built to the CPC–1232 standard) loaded with Class 3 flammable liquid.

A High Threat Urban Area is as defined by 49 CFR 1580.3. A Class 3 flammable liquid is as described by § 173.120 of the HMR. A Class 3 flammable liquid includes the hazardous materials described by § 172.101 of the HMR as UN 1267, petroleum crude oil, 3, PG I, II, or III, and UN 3475, Ethanol and gasoline mixture, 3, PG II, or UN 1287, Denatured alcohol, 3, PG II or III. For purposes of this Order, a Class 3 flammable liquid includes petroleum crude oil that might otherwise be reclassified as a combustible liquid under § 173.150 of the HMR. A DOT–111 car means a jacketed or non-jacketed tank car built to the specification established by subpart D of part 179 of the HMR, but not meeting the standard established by CPC–1232. A CPC–1232 car is a jacketed or non-jacketed DOT–111 tank car built to the CPC–1232 standard. A ''train'' for purposes of this order is as defined by 49 CFR 232.5. This Order will remain in effect until the effective date of the HM–251 final rule (Docket No. PHMSA–2012–0082; RIN 2137–AE91).

*Relief:* Petitions for special approval to take actions not in accordance with this Order may be submitted to the Associate Administrator for Railroad Safety and Chief Safety Officer (Associate Administrator), who is authorized to dispose of those requests without needing to amend this Order. When reviewing any petition for special approval, the Associate Administrator shall grant petitions only when a petitioner has clearly articulated an alternative action that will provide, in the Associate Administrator's judgment, at least a level of safety equivalent to that provided by this Order. This Order will be supplanted and terminated upon the effective date of the HM–251 final rule (Docket No. PHMSA–2012–0082; RIN 2137–AE91).

*Penalties:* Any violation of this Order shall subject the person committing the violation to a civil penalty of up to $105,000. 49 U.S.C. 21301. Any individual who willfully violates a prohibition stated in this order is subject to civil penalties under 49 U.S.C. 21301. In addition, such an individual whose violation of this order demonstrates the individual's unfitness for safety-sensitive service may be removed from safety-sensitive service on the railroad under 49 U.S.C. 20111. FRA may, through the Attorney General, also seek injunctive relief to enforce this order. 49 U.S.C. 20112.

*Review:* Opportunity for formal review of this Order will be provided in accordance with 49 U.S.C. 20104(b) and 5 U.S.C. 554. Administrative procedures governing such review are found at 49 CFR part 211. *See* 49 CFR 211.47, 211.71, 211.73, 211.75, and 211.77.

Issued in Washington, DC.

**Sarah Feinberg,**

*Acting Administrator.*

[FR Doc. 2015–09614 Filed 4–24–15; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket No. FRA–2015–0007–N–8]**

### Agency Request for Emergency Processing of Collection of Information by the Office of Management and Budget

**AGENCY:** Federal Railroad Administration (FRA), United States Department of Transportation (USDOT).

**ACTION:** Notice.

**SUMMARY:** FRA hereby gives notice that it is submitting the following Information Collection request (ICR) to the Office of Management and Budget (OMB) for emergency processing under the Paperwork Reduction Act of 1995. FRA requests that OMB authorize the collection of information identified below immediately upon publication of this Notice for a period of 180 days.

**FOR FURTHER INFORMATION CONTACT:** A copy of this individual ICR, with applicable supporting documentation, may be obtained by telephoning FRA's Office of Railroad Safety Clearance Officer: Robert Brogan (tel. (202) 493–6292) or FRA's Office of Administration Clearance Officer: Kimberly Toone (tel. (202) 493–6132) (these numbers are not toll-free); or by contacting Mr. Brogan via facsimile at (202) 493–6216 or Ms. Toone via facsimile at (202) 493–6497, or via email by contacting Mr. Brogan at *Robert.Brogan@dot.gov;* or by contacting Ms. Toone at *Kim.Toone@dot.gov.* Comments and questions about the ICR identified below should be directed to OMB's Office of Information and Regulatory Affairs, Attn: FRA OMB Desk Officer.

**SUPPLEMENTARY INFORMATION:** Recent derailments have occurred involving trains transporting large quantities of petroleum crude oil and ethanol. Preliminary investigation of one of these recent derailments involving a crude oil train indicates that a mechanical defect involving a broken tank car wheel may have caused or contributed to the incident. FRA is is issuing Safety Advisory 2015–01 to make recommendations to enhance the mechanical safety of the cars in trains transporting large quantities of flammable liquids. The Safety Advisory recommends that railroads use highly qualified individuals to conduct the brake and mechanical inspections and recommends a reduction to the impact threshold levels the industry currently uses for wayside detectors that measure wheel impacts to ensure the wheel integrity of tank cars in those trains.

*Title:* Mechanical Inspections and Wheel Impact Detector Standards for Trains Transporting Large Amounts of Class 3 Flammable Liquids.

*Reporting Burden:*

| Safety advisory 2015–01 | Respondent universe | Total annual responses | Average time per response (minutes) | Total annual burden (hours) |
|---|---|---|---|---|
| (1) Maintenance Advisories from Railroads to Car Owners after Wheel Impact Load Detector (WILD) Automatic Notification that Detects an Impact Above Threshold of 60kips. | 70 Railroads ..... | 350,000 Advisories | 1 | 5,833 |
| (2) Records of Initial Terminal Brake Inspection by Qualified Mechanical Inspector and Records of Freight Car Inspections at Initial Terminals with Designated Inspectors. | 70 Railroads ..... | 1,000 Inspections/ Records. | 30 | 500 |

*Form Number(s):* N/A.

*Respondent Universe:* 70 Railroads.

*Frequency of Submission:* One-time; on occasion.

*Total Estimated Responses:* 351,000.

*Total Estimated Annual Burden:* 6,333 hours.

*Status:* Emergency Review.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

**Authority:** 44 U.S.C. 3501–3520.

**Erin McCartney,**

*Budget Director.*

[FR Doc. 2015–09704 Filed 4–24–15; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket No. FRA–2015–0007–N–7]**

### Agency Request for Emergency Processing of Collection of Information by the Office of Management and Budget

**AGENCY:** Federal Railroad Administration (FRA), United States Department of Transportation (USDOT).

**ACTION:** Notice.

**SUMMARY:** FRA hereby gives notice that it is submitting the following Information Collection request (ICR) to the Office of Management and Budget

(OMB) for emergency processing under the Paperwork Reduction Act of 1995. FRA requests that OMB authorize the collection of information identified below immediately upon publication of this Notice for a period of 180 days.

**FOR FURTHER INFORMATION CONTACT:** A copy of this individual ICR, with applicable supporting documentation, may be obtained by telephoning FRA's Office of Safety Clearance Officer: Robert Brogan (tel. (202) 493–6292) or FRA's Office of Administration Clearance Officer: Kimberly Toone (tel. (202) 493–6132) (these numbers are not toll-free:; or by contacting Mr. Brogan via facsimile at (202) 493–6216 or Ms. Toone via facsimile at (202) 493–6497, or via email by contacting Mr. Brogan at *Robert.Brogan@dot.gov;* or by contacting Ms. Toone at *Kim.Toone@dot.gov*. Comments and questions about the ICR identified below should be directed to OMB's Office of Information and Regulatory Affairs, Attn: FRA OMB Desk Officer.

**SUPPLEMENTARY INFORMATION:** FRA is issuing Emergency Order No. 30 (EO or Order) to require that trains transporting large amounts of Class 3 flammable liquid through certain highly populated areas adhere to a maximum authorized operating speed limit. FRA has determined that public safety compels issuance of the Order. The Order is necessary due to the recent occurrence of railroad accidents involving trains transporting petroleum crude oil and ethanol and the increasing reliance on railroads to transport voluminous amounts of those hazardous materials in recent years. Under the EO, an affected train is one that contains: (1) 20 or more loaded tank cars in a continuous block, or 35 or more loaded tank cars, of Class 3 flammable liquid; and (2) at least one DOT Specification 111 (DOT–111) tank car (including those built in accordance with Association of American Railroads (AAR) Casualty Prevention Circular 1232 (CPC–1232)) loaded with a Class 3 flammable liquid. Affected trains must not exceed 40 miles per hour (mph) in high-threat urban areas (HTUAs) as defined in 49 CFR 1580.3. This Order takes effect immediately.

*Title:* FRA Emergency Order No. 30, Notice No. 1.

| Emergency order item No. 30 | Respondent universe | Total annual responses | Average time per response (hours) | Total annual burden hours |
|---|---|---|---|---|
| (1) Petitions for Special Approval to Take Actions *Not* in Accordance with This Order.. | 70 Railroads ..... | 25 Petitions ..... | 40 | 1,000 |

*Form Number(s):* N/A.

*Respondent Universe:* 70 Railroads,

*Frequency of Submission:* One-time; on occasion.

*Total Estimated Responses:* 25.

*Total Estimated Annual Burden:* 1,000 hours.

*Status:* Emergency Review.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

**Authority:** 44 U.S.C. 3501–3520.

**Rebecca Pennington,**

*Chief Financial Officer.*

[FR Doc. 2015–09702 Filed 4–24–15; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket No. FRA–2015–0007–N–9]**

### Agency Request for Emergency Processing of Collection of Information by the Office of Management and Budget

**AGENCY:** Federal Railroad Administration (FRA), United States Department of Transportation (USDOT).

**ACTION:** Notice.

**SUMMARY:** FRA hereby gives notice that it is submitting the following Information Collection request (ICR) to the Office of Management and Budget (OMB) for emergency processing under the Paperwork Reduction Act of 1995. FRA requests that OMB authorize the collection of information identified below immediately upon publication of this Notice for a period of 180 days.

**FOR FURTHER INFORMATION CONTACT:** A copy of this individual ICR, with applicable supporting documentation, may be obtained by telephoning FRA's Office of Railroad Safety Clearance Officer: Robert Brogan (tel. (202) 493–6292) or FRA's Office of Administration Clearance Officer: Kimberly Toone (tel. (202) 493–6132) (these numbers are not toll-free); or by contacting Mr. Brogan via facsimile at (202) 493–6216 or Ms. Toone via facsimile at (202) 493–6497, or via email by contacting Mr. Brogan at *Robert.Brogan@dot.gov;* or by contacting Ms. Toone at *Kim.Toone@dot.gov*. Comments and questions about the ICR identified below should be directed to OMB's Office of Information and Regulatory Affairs, Attn: FRA OMB Desk Office.

**SUPPLEMENTARY INFORMATION:** Due to recent derailments involving ''high hazard flammable trains'' (HHFTs), FRA and PHMSA have conducted several post-accident investigations and to ensure that stakeholders are fully aware of each agency's investigative authority and cooperate with agency personnel conducting such investigations, where time is of the essence in gathering evidence, the agencies are issuing a Safety Advisory (FRA Safety Advisory 2015–02 and Docket NO. PHMSA–2015–0118, Notice No. 15–11) to remind railroads operating HHFTs—defined as a train comprised of 20 or more loaded tank cars of a Class 3 flammable liquid in a continuous block, or a train with 35 or more loaded tank cars of a Class 3 flammable liquid across the entire train—as well as the offerors of Class 3 flammable liquids transported on such trains, of their obligation to provide PHMSA and FRA, as expeditiously as possible, with information agency personnel need to conduct investigations immediately following an accident or incident.

*Title:* Hazardous Materials: Information Requirements Related to the Transportation of Trains Carrying Specified Volumes of Flammable Liquids.

| FRA Safety Advisory 2015–02; Docket No. PHMSA–2015–0118 | Respondent universe | Total annual responses | Average time per response (hours) | Total annual burden hours |
|---|---|---|---|---|
| (1) Records of High Hazard Flammable Trains Containing Information Specified in This Safety Advisory Provided Upon Request to FRA/PHMSA Personnel After Train Accident. | 70 Railroads ..... | 50 Records ..... | 2 | 100 |

*Form Number(s):* N/A.

*Respondent Universe:* 70 Railroads.

*Frequency of Submission:* One-time; on occasion.

*Total Estimated Responses:* 50.

*Total Estimated Annual Burden:* 100 hours.

*Status:* Emergency Review.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

**Authority:** 44 U.S.C. 3501–3520.

**Erin McCartney,**

*Budget Director.*

[FR Doc. 2015–09703 Filed 4–24–15; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

**[Docket No. PHMSA–2014–0002 (PDA–36(R))]**

### Pittsburgh, Pennsylvania Permit Requirements for Transportation of Hazardous Material

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Notice.

**SUMMARY:** In accordance with statutory requirements, PHMSA is publishing a notice of delay in processing the American Trucking Associations, Inc.'s (ATA) application for a preemption determination concerning requirements of the City of Pittsburgh, Pennsylvania for a permit to transport hazardous materials by motor vehicle and the fee to obtain the permit. PHMSA is conducting fact-finding and legal analysis in response to the request, and is delaying issuance of its determination in order to allow time for appropriate consideration of the issues raised by the application.

**FOR FURTHER INFORMATION CONTACT:** Vincent Lopez, Office of Chief Counsel (PHC–10), Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone No. 202–366–4400; facsimile No. 202–366–7041.

**SUPPLEMENTARY INFORMATION:** ATA applied for an administrative determination concerning whether Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.,* preempts requirements of the City of Pittsburgh, Pennsylvania for a permit to transport hazardous materials by motor vehicle and the fee to obtain the permit. PHMSA published notice of ATA's application in the **Federal Register** on April 17, 2014. 79 FR 21840.

Title 49 U.S.C. 5125(d)(1) requires PHMSA to issue a decision on an application for a preemption determination ''within 180 days after the date of the publication of the notice of having received such application, or the Secretary shall publish a statement in the **Federal Register** of the reason why the Secretary's decision on the application is delayed, along with an estimate of the additional time necessary before a decision is made.''

ATA's application for a preemption determination is still under consideration by PHMSA. The Agency is currently conducting fact-finding and legal analysis in response to the application. Because of this additional fact-finding and legal analysis, it was impracticable to issue a decision within the 180-day timeframe. In order to allow time for full consideration of the issues raised by the application, PHMSA delays issuance of its determination, and estimates a decision will be published in approximately 120 days.

Issued in Washington, DC, on April 21, 2015.

**Joseph Solomey,**

*Senior Assistant Chief Counsel.*

[FR Doc. 2015–09632 Filed 4–24–15; 8:45 am]

**BILLING CODE 4910–60–P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

**[Docket No. PHMSA–2014–0003 (PDA–37(R))]**

### New York City Permit Requirements for Transportation of Certain Hazardous Materials

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Notice.

**SUMMARY:** In accordance with statutory requirements, PHMSA is publishing a notice of delay in processing the American Trucking Associations, Inc.'s (ATA) application for a preemption determination concerning requirements of the New York City Fire Department for a permit to transport certain hazardous materials by motor vehicle through New York City, or for transshipment from New York City, and the fee for the permit. PHMSA is conducting fact-finding and legal analysis in response to the request, and is delaying issuance of its determination in order to allow time for appropriate consideration of the issues raised by the application.

**FOR FURTHER INFORMATION CONTACT:** Vincent Lopez, Office of Chief Counsel (PHC–10), Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone No. 202–366–4400; facsimile No. 202–366–7041.

**SUPPLEMENTARY INFORMATION:** ATA applied for an administrative determination concerning whether Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.,* preempts requirements of the New York City Fire Department for a permit to transport certain hazardous materials by motor vehicle through New York City, or for transshipment from New York City, and the fee for the permit. PHMSA published notice of ATA's application in the **Federal Register** on April 17, 2014. 79 FR 21838.

Title 49 U.S.C. 5125(d)(1) requires PHMSA to issue a decision on an application for a preemption determination ''within 180 days after

the date of the publication of the notice of having received such application, or the Secretary shall publish a statement in the **Federal Register** of the reason why the Secretary's decision on the application is delayed, along with an estimate of the additional time necessary before a decision is made.''

ATA's application for a preemption determination is still under consideration by PHMSA. The Agency is currently conducting fact-finding and legal analysis in response to the application. Because of this additional fact-finding and legal analysis, it was impracticable to issue a decision within the 180-day timeframe. In order to allow time for full consideration of the issues raised by the application, PHMSA delays issuance of its determination, and estimates a decision will be published in approximately 120 days.

Issued in Washington, DC, on April 21, 2015.

**Joseph Solomey,**

*Senior Assistant Chief Counsel.*

[FR Doc. 2015–09634 Filed 4–24–15; 8:45 am]

**BILLING CODE 4910–60–P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

**[Docket No. DOT–OST–2012–0028]**

### Submission of U.S. Carrier Updated Tarmac Delay Contingency Plans to Department of Transportation for Approval

**AGENCY:** Office of the Secretary (OST), Department of Transportation (DOT).

**ACTION:** Notice.

**SUMMARY:** The purpose of this document is to serve as notice to covered U.S. carriers of the statutory obligation, pursuant to the FAA Modernization and Reform Act, 49 U.S.C. 42301(d), to submit updated tarmac delay contingency plans on or before May 14, 2015, to the U.S. Department of Transportation's Office of Aviation Enforcement and Proceedings (Enforcement Office). We request that covered carriers submit their plans through the established Web site: *http://filingtarmacdelayplan.dot.gov*.

**FOR FURTHER INFORMATION CONTACT:** Laura Jennings, Office of the General Counsel, U.S. Department of Transportation, 1200 New Jersey Ave. SE., W–96–429, Washington, DC 20590; Phone: (202) 366–9342; Fax: (202) 366–7152; Email: *Laura.Jennings@dot.gov*.

**SUPPLEMENTARY INFORMATION:**

**Background**

In 2012, pursuant to section 415 of the FAA Modernization and Reform Act of 2012, 49 U.S.C. 42301, (''the Act'') U.S. carriers operating scheduled passenger service or public charter service using any aircraft with a design capacity of 30 or more seats, and airport operators of large hub, medium hub, small hub, or non-hub U.S. airports were required to submit contingency plans for lengthy tarmac delay plans to the Secretary of Transportation for review and approval by May 14, 2012. Covered carriers and airports submitted their tarmac delay plans by the statutory deadline of May 14, 2012, and within 60 days of receipt of a tarmac delay plan, the Enforcement Office reviewed, approved, or, if necessary, required modifications to submitted plans. The Enforcement Office completed the process on August 23, 2012, after reviewing, requesting modifications, and approving 451 plans.

The purpose of this notice is to address the Act's recurring ''updates'' provision, 49 U.S.C. 42301(d)(1), which requires covered air carriers to resubmit updated plans every three years to the Secretary for review and approval.[1] As such, covered carriers are required to update their plans and submit the updated plan for review and approval by May 14, 2015. The submission and review process will be identical to the process used in May 2012.

Similar to 2012, the Department's Bureau of Transportation Statistics (BTS) has identified a preliminary list of those carriers that the Department believes to be covered by the statute. The preliminary list can be found on the Department's Aviation Consumer Protection Division Web site at *www.dot.gov/airconsumer/flight-delays*. Any U.S. carrier on the referenced list that believes it is not covered by the statute and should not be on the list should notify one of the Department contacts listed above as soon as possible. Similarly, if any U.S. carrier believes it is covered by the statute but does not appear on the list, that carrier should notify one of the Department contacts noted above.

Regarding the submission of updated plans, we request that carriers submit their plans through the established Web site: *http://filingtarmacdelayplan.dot.gov*. Most covered carriers already have an account created, but for any questions (*e.g.,* forgotten usernames or passwords), please contact one of the Department contacts noted above. If a carrier needs to register for the first time and create an account, click on the hyperlink titled ''Create Account to Submit Tarmac Delay Contingency Plan'' in the blue sign-in box on the home page of the established Web site. For further reference, more detailed instructions regarding registering an account and submitting plans can be found at *www.dot.gov/airconsumer/flight-delays*. *See* May 2, 2012 Notice.

Pursuant to the Act, the Enforcement Office will have 60 days from receipt of a plan to review and approve a plan or, if necessary, require modifications to the updated plan. 49 U.S.C. 42301(e)(1). If the Enforcement Office fails to approve or require modifications to an updated plan within the 60-day timeframe, the plan shall be deemed approved. 49 U.S.C. 42301(e)(2).

To the extent carriers do not have any updates for their plans, the Enforcement Office will accept resubmission of the same plan. The language of the statute is clear, ''an air carrier shall update each emergency contingency plan submitted by the carrier [] every 3 years and submit the update to the Secretary for review and approval.'' 49 U.S.C. 42301(d)(1).

Issued this 21st day of April 2015, at Washington, DC.

**Blane A. Workie,**

*Assistant General Counsel for Aviation Enforcement and Proceedings, U.S. Department of Transportation.*

[FR Doc. 2015–09716 Filed 4–24–15; 8:45 am]

**BILLING CODE 4910–9X–P**

[1] Airports are also required to submit updated plans on a recurring basis. 49 U.S.C. 42301(d)(2). The requirement for airports is every five years, thus the next submission deadline for covered airports will occur in May 2017.

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

### Sanctions Actions Pursuant to Executive Order 13611

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.

**SUMMARY:** The Treasury Department's Office of Foreign Assets Control (OFAC) is publishing the names of 2 individuals whose property and interests in property are blocked pursuant to Executive Order (E.O.) 13611 and whose names have been added to OFAC's list of Specially Designated Nationals and Blocked Persons (SDN List).

**DATES:** OFAC's actions described in this notice were effective April 14, 2015.

**FOR FURTHER INFORMATION CONTACT:** Associate Director for Global Targeting, tel.: 202/622–2420, Assistant Director for Sanctions Compliance & Evaluation,

tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

**SUPPLEMENTARY INFORMATION:**

## Electronic and Facsimile Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (*www.treas.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs is also available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

## Notice of OFAC Actions

On April 14, 2015, OFAC blocked the property and interests in property of the following 2 individuals pursuant to E.O. 13611, ''Blocking Property of Persons Threatening the Peace, Security, or Stability of Yemen'':

*Individuals*

1. SALEH, Ahmed Ali (a.k.a. SALEH, Ahmad Ali Abdullah; a.k.a. SALEH, Ahmed Ali Abdullah; a.k.a. SALIH AL-AHMAR, Ahmad Ali Abdallah); DOB 25 Jul 1972; alt. DOB 1970; POB Sana'a, Yemen; nationality Yemen; Gender Male; Diplomatic Passport 00000017 (Yemen) issued 27 Oct 2008 expires 26 Oct 2014; Yemen's former Ambassador to the United Arab Emirates; Former Commander of Yemen's Republican Guard (individual) [YEMEN].
2. AL HOUTHI, Abdul Malik (a.k.a. AL-HOUTHI, Abdel-Malek; a.k.a. AL-HOUTHI, Abdel-Malik; a.k.a. AL-HOUTHI, Abdul Malik Badruddin Ameerudin Hussain; a.k.a. AL-HOUTHI, Abdul-Malik; a.k.a. AL-HOUTHI, Abdulmalik Bin Bader Al-Deen); DOB 1982; alt. DOB 1981; alt. DOB 1980; POB Dahyan Governorate, Yemen; nationality Yemen; Leader of the Houthi group (individual) [YEMEN].

Dated: April 14, 2015.

**Andrea M. Gacki,**

*Acting Director, Office of Foreign Assets Control.*

[FR Doc. 2015–09715 Filed 4–24–15; 8:45 am]

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# FEDERAL REGISTER

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Part II

## Department of Health and Human Services

Centers for Medicare & Medicaid Services

42 CFR Part 412

Medicare Program; Inpatient Rehabilitation Facility Prospective Payment System for Federal Fiscal Year 2016; Proposed Rule

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Medicare & Medicaid Services**

**42 CFR Part 412**

**[CMS–1624–P]**

**RIN 0938–AS45**

# Medicare Program; Inpatient Rehabilitation Facility Prospective Payment System for Federal Fiscal Year 2016

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would update the prospective payment rates for inpatient rehabilitation facilities (IRFs) for federal fiscal year (FY) 2016 as required by the statute. We are also proposing to adopt an IRF-specific market basket that reflects the cost structures of only IRF providers, phase in the revised wage index changes, and revise and update quality measures and reporting requirements under the IRF quality reporting program (QRP).

**DATES:** To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on June 22, 2015.

**ADDRESSES:** In commenting, please refer to file code CMS–1624–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

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

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov*. Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1624–P, P.O. Box 8016, Baltimore, MD 21244–8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1624–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* Alternatively, you may deliver (by hand or courier) your written comments ONLY to the following addresses prior to the close of the comment period:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786–7195 in advance to schedule your arrival with one of our staff members.

*Comments erroneously mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.*

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:**

Gwendolyn Johnson, (410) 786–6954, for general information.

Charles Padgett, (410) 786–2811, for information about the quality reporting program.

Kadie Thomas, (410) 786–0468, or Susanne Seagrave, (410) 786–0044, for information about the payment policies and the proposed payment rates.

Catherine Kraemer, (410) 786–0179, for information about the revised wage index.

Bridget Dickensheets, (410) 786–8670, or Heidi Oumarou, (410) 786–7942, for information about the IRF-specific market basket.

**SUPPLEMENTARY INFORMATION:** The IRF PPS Addenda along with other supporting documents and tables referenced in this proposed rule are available through the Internet on the CMS Web site at *http://www.cms.hhs.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientRehabFacPPS/*.

*Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov*. Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

## Executive Summary

### *A. Purpose*

This proposed rule would update the payment rates for IRFs for FY 2016 (that is, for discharges occurring on or after October 1, 2015, and on or before September 30, 2016) as required under section 1886(j)(3)(C) of the Social Security Act (the Act). Section 1886(j)(5) of the Act requires the Secretary to publish in the **Federal Register** on or before the August 1 that precedes the start of each fiscal year, the classification and weighting factors for the IRF PPS's case-mix groups and a description of the methodology and data used in computing the prospective payment rates for that fiscal year. This proposed rule would also revise and update quality measures and reporting requirements under the IRF QRP.

### *B. Summary of Major Provisions*

In this proposed rule, we use the methods described in the FY 2015 IRF PPS final rule (79 FR 45872) to propose updates to the federal prospective payment rates for FY 2016 using updated FY 2014 IRF claims and the most recent available IRF cost report data. We are also proposing to adopt an IRF-specific market basket that reflects the cost structures of only IRF providers. We are proposing that the IRF-specific market basket will be used to update the IRF PPS base payment rate and to determine the FY 2016 labor-related share. We are also proposing to phase in the revised wage index changes, and revise and update quality measures and reporting requirements under the IRF QRP.

### *C. Summary of Impacts*

| Provision Description | Transfers |
|---|---|
| FY 2016 IRF PPS payment rate update | The overall economic impact of this proposed rule is an estimated $130 million in increased payments from the Federal government to IRFs during FY 2016. |
| **Provision Description** | **Costs** |
| New quality reporting program requirements | The total costs in FY 2016 for IRFs as a result of the proposed new quality reporting requirements are estimated to be $24,042,291.01. |

To assist readers in referencing sections contained in this document, we are providing the following Table of Contents.

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## Acronyms, Abbreviations, and Short Forms

Because of the many terms to which we refer by acronym, abbreviation, or short form in this final rule, we are listing the acronyms, abbreviation, and short forms used and their corresponding terms in alphabetical order.

The Act  The Social Security Act
ADC  Average Daily Census
The Affordable Care Act  Patient Protection and Affordable Care Act (Pub. L. 111–148, enacted on March 23, 2010)
AHA  American Hospital Association
AHE  Average Hourly Earnings
AHIMA  American Health Information Management Association
ASAP  Assessment Submission and Processing
ASCA  Administrative Simplification Compliance Act (Pub. L. 107–105, enacted on December 27, 2002)
BEA  Bureau of Economic Analysis
BLS  U.S. Bureau of Labor Statistics
CAH  Critical Access Hospitals
CARE  Continuity Assessment Record and Evaluation
CAUTI  Catheter-Associated Urinary Tract Infection
CBSA  Core-Based Statistical Area
CCR  Cost-to-Charge Ratio
CDC  The Centers for Disease Control and Prevention
CDI  *Clostridium difficile* Infection
CFR  Code of Federal Regulations
CMG  Case-Mix Group
CMS  Centers for Medicare & Medicaid Services
CPI  Consumer Price Index
DSH  Disproportionate Share Hospital
DSH PP  Disproportionate Share Patient Percentage
ECI  Employment Cost Index
EHR  Electronic Health Record
ESRD  End-Stage Renal Disease
FFS  Fee-for-Service
FR  Federal Register
FY  Federal Fiscal Year
GDP  Gross Domestic Product
HAI  Healthcare Associated Infection
HCP  Health Care Personnel
HHS  U.S. Department of Health & Human Services
HIE  Health Information Exchange
HIPAA  Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104–191, enacted on August 21, 1996)
HOMER  Home Office Medicare Records
ICD–9–CM  International Classification of Diseases, 9th Revision, Clinical Modification
ICD–10–CM  International Classification of Diseases, 10th Revision, Clinical Modification
IGI IHS  Global Insight
IMPACT Act  Improving Medicare Post-Acute Care Transformation Act of 2014 (Pub. L. 113–185, enacted on October 6, 2014)
I–O  Input-Output
IPF  Inpatient Psychiatric Facility
IQR  Inpatient Quality Reporting Program
IRF  Inpatient Rehabilitation Facility
IRF–PAI  Inpatient Rehabilitation Facility-Patient Assessment Instrument
IRF PPS  Inpatient Rehabilitation Facility Prospective Payment System
IRF QRP  Inpatient Rehabilitation Facility Quality Reporting Program

IRVEN Inpatient Rehabilitation Validation and Entry
LIP Low-Income Percentage
LOS Length of Stay
LPN Licensed Practical Nurse
LTCH Long-Term Care Hospital
MAC Medicare Administrative Contractor
MAP Measure Applications Partnership
MA (Medicare Part C) Medicare Advantage
MedPAC Medicare Payment Advisory Commission
MDS Minimum Data Set
MFP Multifactor Productivity
MLN Medicare Learning Network
MMSEA Medicare, Medicaid, and SCHIP Extension Act of 2007 (Pub. L. 110–173, enacted on December 29, 2007)
MRSA Methicillin-Resistant *Staphylococcus aureus*
MSA Metropolitan Statistical Area
MUC Measures under Consideration
NAICS North American Industry Classification System
NHSN National Healthcare Safety Network
NPP National Priorities Partnership
NPUAP National Pressure Ulcer Advisory Panel
NQF National Quality Forum
OMB Office of Management and Budget
ONC Office of the National Coordinator for Health Information Technology
OT Occupational Therapists
PAC Post-Acute Care
PAI Patient Assessment Instrument
PLI Professional Liability Insurance
POA Present on Admission
PPI Producer Price Index
PPS Prospective Payment System
PRA Paperwork Reduction Act of 1995 (Pub. L. 104–13, enacted on May 22, 1995)
PRRB Provider Reimbursement Review Board
PT Physical Therapist
QIES Quality Improvement Evaluation System
QM Quality Measure
QRP Quality Reporting Program
RIA Regulatory Impact Analysis
RIC Rehabilitation Impairment Category
RFA Regulatory Flexibility Act (Pub. L. 96–354, enacted on September 19, 1980)
RN Registered Nurse
RPL Rehabilitation, Psychiatric, and Long-Term Care market basket
RSRR Risk-standardized readmission rate
SDTI Suspected Deep Tissue Injuries
SIR Standardized Infection Ratio
SLP Speech-Language Pathologist
SOC Standard Occupational Classification System
SNF Skilled Nursing Facilities
SRR Standardized Risk Ratio
SSI Supplemental Security Income
TEP Technical Expert Panel

## I. Background

### *A. Historical Overview of the IRF PPS*

Section 1886(j) of the Act provides for the implementation of a per-discharge PPS for inpatient rehabilitation hospitals and inpatient rehabilitation units of a hospital (collectively, hereinafter referred to as IRFs). Payments under the IRF PPS encompass inpatient operating and capital costs of furnishing covered rehabilitation services (that is, routine, ancillary, and capital costs), but not direct graduate medical education costs, costs of approved nursing and allied health education activities, bad debts, and other services or items outside the scope of the IRF PPS. Although a complete discussion of the IRF PPS provisions appears in the original FY 2002 IRF PPS final rule (66 FR 41316) and the FY 2006 IRF PPS final rule (70 FR 47880), we are providing below a general description of the IRF PPS for fiscal years (FYs) 2002 through 2015.

Under the IRF PPS from FY 2002 through FY 2005, as described in the FY 2002 IRF PPS final rule (66 FR 41316), the federal prospective payment rates were computed across 100 distinct case-mix groups (CMGs). We constructed 95 CMGs using rehabilitation impairment categories (RICs), functional status (both motor and cognitive), and age (in some cases, cognitive status and age may not be a factor in defining a CMG). In addition, we constructed five special CMGs to account for very short stays and for patients who expire in the IRF.

For each of the CMGs, we developed relative weighting factors to account for a patient's clinical characteristics and expected resource needs. Thus, the weighting factors accounted for the relative difference in resource use across all CMGs. Within each CMG, we created tiers based on the estimated effects that certain comorbidities would have on resource use.

We established the federal PPS rates using a standardized payment conversion factor (formerly referred to as the budget-neutral conversion factor). For a detailed discussion of the budget-neutral conversion factor, please refer to our FY 2004 IRF PPS final rule (68 FR 45684 through 45685). In the FY 2006 IRF PPS final rule (70 FR 47880), we discussed in detail the methodology for determining the standard payment conversion factor.

We applied the relative weighting factors to the standard payment conversion factor to compute the unadjusted federal prospective payment rates under the IRF PPS from FYs 2002 through 2005. Within the structure of the payment system, we then made adjustments to account for interrupted stays, transfers, short stays, and deaths. Finally, we applied the applicable adjustments to account for geographic variations in wages (wage index), the percentage of low-income patients, location in a rural area (if applicable), and outlier payments (if applicable) to the IRFs' unadjusted federal prospective payment rates.

For cost reporting periods that began on or after January 1, 2002, and before October 1, 2002, we determined the final prospective payment amounts using the transition methodology prescribed in section 1886(j)(1) of the Act. Under this provision, IRFs transitioning into the PPS were paid a blend of the federal IRF PPS rate and the payment that the IRFs would have received had the IRF PPS not been implemented. This provision also allowed IRFs to elect to bypass this blended payment and immediately be paid 100 percent of the federal IRF PPS rate. The transition methodology expired as of cost reporting periods beginning on or after October 1, 2002 (FY 2003), and payments for all IRFs now consist of 100 percent of the federal IRF PPS rate.

We established a CMS Web site as a primary information resource for the IRF PPS which is available at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientRehabFacPPS/index.html*. The Web site may be accessed to download or view publications, software, data specifications, educational materials, and other information pertinent to the IRF PPS.

Section 1886(j) of the Act confers broad statutory authority upon the Secretary to propose refinements to the IRF PPS. In the FY 2006 IRF PPS final rule (70 FR 47880) and in correcting amendments to the FY 2006 IRF PPS final rule (70 FR 57166) that we published on September 30, 2005, we finalized a number of refinements to the IRF PPS case-mix classification system (the CMGs and the corresponding relative weights) and the case-level and facility-level adjustments. These refinements included the adoption of the Office of Management and Budget's (OMB) Core-Based Statistical Area (CBSA) market definitions, modifications to the CMGs, tier comorbidities, and CMG relative weights, implementation of a new teaching status adjustment for IRFs, revision and rebasing of the market basket index used to update IRF payments, and updates to the rural, low-income percentage (LIP), and high-cost outlier adjustments. Beginning with the FY 2006 IRF PPS final rule (70 FR 47908 through 47917), the market basket index used to update IRF payments was a market basket reflecting the operating and capital cost structures for freestanding IRFs, freestanding inpatient psychiatric facilities (IPFs), and long-term care hospitals (LTCHs) (hereafter referred to as the rehabilitation, psychiatric, and long-term care (RPL) market basket). Any reference to the FY

2006 IRF PPS final rule in this final rule also includes the provisions effective in the correcting amendments. For a detailed discussion of the final key policy changes for FY 2006, please refer to the FY 2006 IRF PPS final rule (70 FR 47880 and 70 FR 57166).

In the FY 2007 IRF PPS final rule (71 FR 48354), we further refined the IRF PPS case-mix classification system (the CMG relative weights) and the case-level adjustments, to ensure that IRF PPS payments would continue to reflect as accurately as possible the costs of care. For a detailed discussion of the FY 2007 policy revisions, please refer to the FY 2007 IRF PPS final rule (71 FR 48354).

In the FY 2008 IRF PPS final rule (72 FR 44284), we updated the federal prospective payment rates and the outlier threshold, revised the IRF wage index policy, and clarified how we determine high-cost outlier payments for transfer cases. For more information on the policy changes implemented for FY 2008, please refer to the FY 2008 IRF PPS final rule (72 FR 44284), in which we published the final FY 2008 IRF federal prospective payment rates.

After publication of the FY 2008 IRF PPS final rule (72 FR 44284), section 115 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Pub. L. 110–173, enacted on December 29, 2007) (MMSEA), amended section 1886(j)(3)(C) of the Act to apply a zero percent increase factor for FYs 2008 and 2009, effective for IRF discharges occurring on or after April 1, 2008. Section 1886(j)(3)(C) of the Act required the Secretary to develop an increase factor to update the IRF federal prospective payment rates for each FY. Based on the legislative change to the increase factor, we revised the FY 2008 federal prospective payment rates for IRF discharges occurring on or after April 1, 2008. Thus, the final FY 2008 IRF federal prospective payment rates that were published in the FY 2008 IRF PPS final rule (72 FR 44284) were effective for discharges occurring on or after October 1, 2007, and on or before March 31, 2008; and the revised FY 2008 IRF federal prospective payment rates were effective for discharges occurring on or after April 1, 2008, and on or before September 30, 2008. The revised FY 2008 federal prospective payment rates are available on the CMS Web site at: *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientRehabFacPPS/Data-Files.html*.

In the FY 2009 IRF PPS final rule (73 FR 46370), we updated the CMG relative weights, the average length of stay values, and the outlier threshold; clarified IRF wage index policies regarding the treatment of ''New England deemed'' counties and multi-campus hospitals; and revised the regulation text in response to section 115 of the MMSEA to set the IRF compliance percentage at 60 percent (the ''60 percent rule'') and continue the practice of including comorbidities in the calculation of compliance percentages. We also applied a zero percent market basket increase factor for FY 2009 in accordance with section 115 of the MMSEA. For more information on the policy changes implemented for FY 2009, please refer to the FY 2009 IRF PPS final rule (73 FR 46370), in which we published the final FY 2009 IRF federal prospective payment rates.

In the FY 2010 IRF PPS final rule (74 FR 39762) and in correcting amendments to the FY 2010 IRF PPS final rule (74 FR 50712) that we published on October 1, 2009, we updated the federal prospective payment rates, the CMG relative weights, the average length of stay values, the rural, LIP, teaching status adjustment factors, and the outlier threshold; implemented new IRF coverage requirements for determining whether an IRF claim is reasonable and necessary; and revised the regulation text to require IRFs to submit patient assessments on Medicare Advantage (MA) (Medicare Part C) patients for use in the 60 percent rule calculations. Any reference to the FY 2010 IRF PPS final rule in this final rule also includes the provisions effective in the correcting amendments. For more information on the policy changes implemented for FY 2010, please refer to the FY 2010 IRF PPS final rule (74 FR 39762 and 74 FR 50712), in which we published the final FY 2010 IRF federal prospective payment rates.

After publication of the FY 2010 IRF PPS final rule (74 FR 39762), section 3401(d) of the Patient Protection and Affordable Care Act (Pub. L. 111–148, enacted on March 23, 2010), as amended by section 10319 of the same Act and by section 1105 of the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152, enacted on March 30, 2010) (collectively, hereafter referred to as ''The Affordable Care Act''), amended section 1886(j)(3)(C) of the Act and added section 1886(j)(3)(D) of the Act. Section 1886(j)(3)(C) of the Act requires the Secretary to estimate a multi-factor productivity adjustment to the market basket increase factor, and to apply other adjustments as defined by the Act. The productivity adjustment applies to FYs from 2012 forward. The other adjustments apply to FYs 2010 to 2019.

Sections 1886(j)(3)(C)(ii)(II) and 1886(j)(3)(D)(i) of the Act defined the adjustments that were to be applied to the market basket increase factors in FYs 2010 and 2011. Under these provisions, the Secretary was required to reduce the market basket increase factor in FY 2010 by a 0.25 percentage point adjustment. Notwithstanding this provision, in accordance with section 3401(p) of the Affordable Care Act, the adjusted FY 2010 rate was only to be applied to discharges occurring on or after April 1, 2010. Based on the self-implementing legislative changes to section 1886(j)(3) of the Act, we adjusted the FY 2010 federal prospective payment rates as required, and applied these rates to IRF discharges occurring on or after April 1, 2010, and on or before September 30, 2010. Thus, the final FY 2010 IRF federal prospective payment rates that were published in the FY 2010 IRF PPS final rule (74 FR 39762) were used for discharges occurring on or after October 1, 2009, and on or before March 31, 2010, and the adjusted FY 2010 IRF federal prospective payment rates applied to discharges occurring on or after April 1, 2010, and on or before September 30, 2010. The adjusted FY 2010 federal prospective payment rates are available on the CMS Web site at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientRehabFacPPS/Data-Files.html*.

In addition, sections 1886(j)(3)(C) and (D) of the Act also affected the FY 2010 IRF outlier threshold amount because they required an adjustment to the FY 2010 RPL market basket increase factor, which changed the standard payment conversion factor for FY 2010. Specifically, the original FY 2010 IRF outlier threshold amount was determined based on the original estimated FY 2010 RPL market basket increase factor of 2.5 percent and the standard payment conversion factor of $13,661. However, as adjusted, the IRF prospective payments are based on the adjusted RPL market basket increase factor of 2.25 percent and the revised standard payment conversion factor of $13,627. To maintain estimated outlier payments for FY 2010 equal to the established standard of 3 percent of total estimated IRF PPS payments for FY 2010, we revised the IRF outlier threshold amount for FY 2010 for discharges occurring on or after April 1, 2010, and on or before September 30, 2010. The revised IRF outlier threshold amount for FY 2010 was $10,721.

Sections 1886(j)(3)(c)(ii)(II) and 1886(j)(3)(D)(i) of the Act also required the Secretary to reduce the market basket increase factor in FY 2011 by a

0.25 percentage point adjustment. The FY 2011 IRF PPS notice (75 FR 42836) and the correcting amendments to the FY 2011 IRF PPS notice (75 FR 70013) described the required adjustments to the FY 2011 and FY 2010 IRF PPS federal prospective payment rates and outlier threshold amount for IRF discharges occurring on or after April 1, 2010, and on or before September 30, 2011. It also updated the FY 2011 federal prospective payment rates, the CMG relative weights, and the average length of stay values. Any reference to the FY 2011 IRF PPS notice in this final rule also includes the provisions effective in the correcting amendments. For more information on the FY 2010 and FY 2011 adjustments or the updates for FY 2011, please refer to the FY 2011 IRF PPS notice (75 FR 42836 and 75 FR 70013).

In the FY 2012 IRF PPS final rule (76 FR 47836), we updated the IRF federal prospective payment rates, rebased and revised the RPL market basket, and established a new quality reporting program for IRFs in accordance with section 1886(j)(7) of the Act. We also revised regulation text for the purpose of updating and providing greater clarity. For more information on the policy changes implemented for FY 2012, please refer to the FY 2012 IRF PPS final rule (76 FR 47836), in which we published the final FY 2012 IRF federal prospective payment rates.

The FY 2013 IRF PPS notice (77 FR 44618) described the required adjustments to the FY 2013 federal prospective payment rates and outlier threshold amount for IRF discharges occurring on or after October 1, 2012, and on or before September 30, 2013. It also updated the FY 2013 federal prospective payment rates, the CMG relative weights, and the average length of stay values. For more information on the updates for FY 2013, please refer to the FY 2013 IRF PPS notice (77 FR 44618).

In the FY 2014 IRF PPS final rule (78 FR 47860), we updated the federal prospective payment rates, the CMG relative weights, and the outlier threshold amount. We also updated the facility-level adjustment factors using an enhanced estimation methodology, revised the list of diagnosis codes that count toward an IRF's 60 percent rule compliance calculation to determine ''presumptive compliance,'' revised sections of the Inpatient Rehabilitation Facility-Patient Assessment Instrument (IRF–PAI), revised requirements for acute care hospitals that have IRF units, clarified the IRF regulation text regarding limitation of review, updated references to previously changed sections in the regulations text, and revised and updated quality measures and reporting requirements under the IRF quality reporting program. For more information on the policy changes implemented for FY 2014, please refer to the FY 2014 IRF PPS final rule (78 FR 47860), in which we published the final FY 2014 IRF federal prospective payment rates.

In the FY 2015 IRF PPS final rule (79 FR 45872), we updated the federal prospective payment rates, the CMG relative weights, and the outlier threshold amount. We also further revised the list of diagnosis codes that count toward an IRF's 60 percent rule compliance calculation to determine ''presumptive compliance,'' revised sections of the IRF–PAI, and revised and updated quality measures and reporting requirements under the IRF quality reporting program. For more information on the policy changes implemented for FY 2015, please refer to the FY 2015 IRF PPS final rule (79 FR 45872) and the FY 2015 IRF PPS correction notice (79 FR 59121).

*B. Provisions of the Affordable Care Act Affecting the IRF PPS in FY 2012 and Beyond*

The Affordable Care Act included several provisions that affect the IRF PPS in FYs 2012 and beyond. In addition to what was previously discussed, section 3401(d) of the Affordable Care Act also added section 1886(j)(3)(C)(ii)(I) (providing for a ''productivity adjustment'' for fiscal year 2012 and each subsequent fiscal year). The productivity adjustment for FY 2016 is discussed in section V.D. of this proposed rule. Section 3401(d) of the Affordable Care Act requires an additional 0.2 percentage point adjustment to the IRF increase factor for FY 2016, as discussed in section V.D. of this proposed rule. Section 1886(j)(3)(C)(ii)(II) of the Act notes that the application of these adjustments to the market basket update may result in an update that is less than 0.0 for a fiscal year and in payment rates for a fiscal year being less than such payment rates for the preceding fiscal year.

Section 3004(b) of the Affordable Care Act also addressed the IRF PPS program. It reassigned the previously designated section 1886(j)(7) of the Act to section 1886(j)(8) and inserted a new section 1886(j)(7), which contains requirements for the Secretary to establish a quality reporting program for IRFs. Under that program, data must be submitted in a form and manner and at a time specified by the Secretary. Beginning in FY 2014, section 1886(j)(7)(A)(i) of the Act requires the application of a 2 percentage point reduction of the applicable market basket increase factor for IRFs that fail to comply with the quality data submission requirements. Application of the 2 percentage point reduction may result in an update that is less than 0.0 for a fiscal year and in payment rates for a fiscal year being less than such payment rates for the preceding fiscal year. Reporting-based reductions to the market basket increase factor will not be cumulative; they will only apply for the FY involved.

Under section 1886(j)(7)(D)(i) and (ii) of the Act, the Secretary is generally required to select quality measures for the IRF quality reporting program from those that have been endorsed by the consensus-based entity which holds a performance measurement contract under section 1890(a) of the Act. This contract is currently held by the National Quality Forum (NQF). So long as due consideration is given to measures that have been endorsed or adopted by a consensus-based organization, section 1886(j)(7)(D)(ii) of the Act authorizes the Secretary to select non-endorsed measures for specified areas or medical topics when there are no feasible or practical endorsed measure(s).

Section 1886(j)(7)(E) of the Act requires the Secretary to establish procedures for making the IRF PPS quality reporting data available to the public. In so doing, the Secretary must ensure that IRFs have the opportunity to review any such data prior to its release to the public. Future rulemaking will address these public reporting obligations.

*C. Operational Overview of the Current IRF PPS*

As described in the FY 2002 IRF PPS final rule, upon the admission and discharge of a Medicare Part A Fee-for-Service patient, the IRF is required to complete the appropriate sections of a patient assessment instrument (PAI), designated as the IRF–PAI. In addition, beginning with IRF discharges occurring on or after October 1, 2009, the IRF is also required to complete the appropriate sections of the IRF–PAI upon the admission and discharge of each Medicare Part C (Medicare Advantage) patient, as described in the FY 2010 IRF PPS final rule. All required data must be electronically encoded into the IRF–PAI software product. Generally, the software product includes patient classification programming called the Grouper software. The Grouper software uses specific IRF–PAI data elements to classify (or group) patients into distinct

CMGs and account for the existence of any relevant comorbidities.

The Grouper software produces a 5-character CMG number. The first character is an alphabetic character that indicates the comorbidity tier. The last 4 characters are numeric characters that represent the distinct CMG number. Free downloads of the Inpatient Rehabilitation Validation and Entry (IRVEN) software product, including the Grouper software, are available on the CMS Web site at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientRehabFacPPS/Software.html*.

Once a Medicare Fee-for-Service Part A patient is discharged, the IRF submits a Medicare claim as a Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104–191, enacted on August 21, 1996) (HIPAA) compliant electronic claim or, if the Administrative Simplification Compliance Act of 2002 (Pub. L. 107–105, enacted on December 27, 2002) (ASCA) permits, a paper claim (a UB–04 or a CMS–1450 as appropriate) using the five-character CMG number and sends it to the appropriate Medicare Administrative Contractor (MAC). In addition, once a Medicare Advantage patient is discharged, in accordance with the Medicare Claims Processing Manual, chapter 3, section 20.3 (Pub. 100–04), hospitals (including IRFs) must submit an informational-only bill (TOB 111), which includes Condition Code 04 to their MAC. This will ensure that the Medicare Advantage days are included in the hospital's Supplemental Security Income (SSI) ratio (used in calculating the IRF low-income percentage adjustment) for Fiscal Year 2007 and beyond. Claims submitted to Medicare must comply with both ASCA and HIPAA.

Section 3 of the ASCA amends section 1862(a) of the Act by adding paragraph (22), which requires the Medicare program, subject to section 1862(h) of the Act, to deny payment under Part A or Part B for any expenses for items or services ''for which a claim is submitted other than in an electronic form specified by the Secretary.'' Section 1862(h) of the Act, in turn, provides that the Secretary shall waive such denial in situations in which there is no method available for the submission of claims in an electronic form or the entity submitting the claim is a small provider. In addition, the Secretary also has the authority to waive such denial ''in such unusual cases as the Secretary finds appropriate.'' For more information, see the ''Medicare Program; Electronic Submission of Medicare Claims'' final rule (70 FR 71008). Our instructions for the limited number of Medicare claims submitted on paper are available at *http://www.cms.gov/manuals/downloads/clm104c25.pdf*.

Section 3 of the ASCA operates in the context of the administrative simplification provisions of HIPAA, which include, among others, the requirements for transaction standards and code sets codified in 45 CFR parts 160 and 162, subparts A and I through R (generally known as the Transactions Rule). The Transactions Rule requires covered entities, including covered health care providers, to conduct covered electronic transactions according to the applicable transaction standards. (See the CMS program claim memoranda at *http://www.cms.gov/ElectronicBillingEDITrans/* and listed in the addenda to the Medicare Intermediary Manual, Part 3, section 3600).

The MAC processes the claim through its software system. This software system includes pricing programming called the ''Pricer'' software. The Pricer software uses the CMG number, along with other specific claim data elements and provider-specific data, to adjust the IRF's prospective payment for interrupted stays, transfers, short stays, and deaths, and then applies the applicable adjustments to account for the IRF's wage index, percentage of low-income patients, rural location, and outlier payments. For discharges occurring on or after October 1, 2005, the IRF PPS payment also reflects the teaching status adjustment that became effective as of FY 2006, as discussed in the FY 2006 IRF PPS final rule (70 FR 47880).

## II. Summary of Provisions of the Proposed Rule

In this proposed rule, we propose to update the IRF federal prospective payment rates, adopt an IRF-specific market basket that will be used to determine the market basket update and labor-related share, phase in the revised wage index changes, and revise and update quality measures and reporting requirements under the IRF QRP.

The proposed updates to the IRF federal prospective payment rates for FY 2016 are as follows:

- Update the FY 2016 IRF PPS relative weights and average length of stay values using the most current and complete Medicare claims and cost report data in a budget-neutral manner, as discussed in section III of this proposed rule.
- Describe the continued use of FY 2014 facility-level adjustment factors as discussed in section IV of this proposed rule.
- Adopt the proposed IRF-specific market basket, as discussed in section V of this proposed rule.
- Update the FY 2016 IRF PPS payment rates by the proposed market basket increase factor, based upon the most current data available, with a 0.2 percentage point reduction as required by sections 1886(j)(3)(C)(ii)(II) and 1886(j)(3)(D)(iv) of the Act and a proposed productivity adjustment required by section 1886(j)(3)(C)(ii)(I) of the Act, as described in section V of this proposed rule.
- Update the FY 2016 IRF PPS payment rates by the FY 2016 wage index and the labor-related share in a budget-neutral manner and discuss the proposed wage adjustment transition as discussed in section V of this proposed rule.
- Describe the calculation of the IRF standard payment conversion factor for FY 2016, as discussed in section V of this proposed rule.
- Update the outlier threshold amount for FY 2016, as discussed in section VI of this proposed rule.
- Update the cost-to-charge ratio (CCR) ceiling and urban/rural average CCRs for FY 2016, as discussed in section VI of this proposed rule.
- Discuss implementation of International Classification of Diseases, 10th Revision, Clinical Modification (ICD–10–CM) for the IRF PPS as discussed in section VII of this proposed rule.
- Describe proposed revisions and updates to quality measures and reporting requirements under the quality reporting program for IRFs in accordance with section 1886(j)(7) of the Act, as discussed in section VIII of this proposed rule.

## III. Proposed Update to the CMG Relative Weights and Average Length of Stay Values for FY 2016

As specified in § 412.620(b)(1), we calculate a relative weight for each CMG that is proportional to the resources needed by an average inpatient rehabilitation case in that CMG. For example, cases in a CMG with a relative weight of 2, on average, will cost twice as much as cases in a CMG with a relative weight of 1. Relative weights account for the variance in cost per discharge due to the variance in resource utilization among the payment groups, and their use helps to ensure that IRF PPS payments support beneficiary access to care, as well as provider efficiency.

In this proposed rule, we propose to update the CMG relative weights and average length of stay values for FY 2016. As required by statute, we always

use the most recent available data to update the CMG relative weights and average lengths of stay. For FY 2016, we propose to use the FY 2014 IRF claims and FY 2013 IRF cost report data. These data are the most current and complete data available at this time. Currently, only a small portion of the FY 2014 IRF cost report data are available for analysis, but the majority of the FY 2014 IRF claims data are available for analysis.

In this proposed rule, we propose to apply these data using the same methodologies that we have used to update the CMG relative weights and average length of stay values each fiscal year since we implemented an update to the methodology to use the more detailed CCR data from the cost reports of IRF subprovider units of primary acute care hospitals, instead of CCR data from the associated primary care hospitals, to calculate IRFs' average costs per case, as discussed in the FY 2009 IRF PPS final rule (73 FR 46372). In calculating the CMG relative weights, we use a hospital-specific relative value method to estimate operating (routine and ancillary services) and capital costs of IRFs. The process used to calculate the CMG relative weights for this proposed rule is as follows:

*Step 1.* We estimate the effects that comorbidities have on costs.

*Step 2.* We adjust the cost of each Medicare discharge (case) to reflect the effects found in the first step.

*Step 3.* We use the adjusted costs from the second step to calculate CMG relative weights, using the hospital-specific relative value method.

*Step 4.* We normalize the FY 2016 CMG relative weights to the same average CMG relative weight from the CMG relative weights implemented in the FY 2015 IRF PPS final rule (79 FR 45872).

Consistent with the methodology that we have used to update the IRF classification system in each instance in the past, we propose to update the CMG relative weights for FY 2016 in such a way that total estimated aggregate payments to IRFs for FY 2016 are the same with or without the changes (that is, in a budget-neutral manner) by applying a budget neutrality factor to the standard payment amount. To calculate the appropriate budget neutrality factor for use in updating the FY 2016 CMG relative weights, we use the following steps:

*Step 1.* Calculate the estimated total amount of IRF PPS payments for FY 2016 (with no changes to the CMG relative weights).

*Step 2.* Calculate the estimated total amount of IRF PPS payments for FY 2016 by applying the changes to the CMG relative weights (as discussed in this proposed rule).

*Step 3.* Divide the amount calculated in step 1 by the amount calculated in step 2 to determine the budget neutrality factor (1.0000) that would maintain the same total estimated aggregate payments in FY 2016 with and without the changes to the CMG relative weights.

*Step 4.* Apply the budget neutrality factor (1.0000) to the FY 2015 IRF PPS standard payment amount after the application of the budget-neutral wage adjustment factor.

In section V.G. of this proposed rule, we discuss the proposed use of the existing methodology to calculate the standard payment conversion factor for FY 2016.

Table 1, ''Relative Weights and Average Length of Stay Values for Case-Mix Groups,'' presents the CMGs, the comorbidity tiers, the corresponding relative weights, and the average length of stay values for each CMG and tier for FY 2016. The average length of stay for each CMG is used to determine when an IRF discharge meets the definition of a short-stay transfer, which results in a per diem case level adjustment.

TABLE 1—RELATIVE WEIGHTS AND AVERAGE LENGTH OF STAY VALUES FOR CASE-MIX GROUPS

| CMG | CMG description (M=motor, C=cognitive, A=age) | Relative weight | | | | Average length of stay | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | Tier 1 | Tier 2 | Tier 3 | None | Tier 1 | Tier 2 | Tier 3 | None |
| 0101 | Stroke, M>51.05 | 0.8074 | 0.7072 | 0.6585 | 0.6300 | 10 | 9 | 9 | 8 |
| 0102 | Stroke, M>44.45 and M<51.05 and C>18.5. | 1.0213 | 0.8946 | 0.8329 | 0.7968 | 11 | 10 | 10 | 10 |
| 0103 | Stroke, M>44.45 and M<51.05 and C<18.5. | 1.1406 | 0.9991 | 0.9302 | 0.8899 | 12 | 13 | 12 | 11 |
| 0104 | Stroke, M>38.85 and M<44.45 | 1.2382 | 1.0846 | 1.0098 | 0.9661 | 13 | 13 | 12 | 12 |
| 0105 | Stroke, M>34.25 and M<38.85 | 1.4520 | 1.2718 | 1.1841 | 1.1329 | 14 | 15 | 14 | 14 |
| 0106 | Stroke, M>30.05 and M<34.25 | 1.6190 | 1.4181 | 1.3204 | 1.2632 | 16 | 16 | 15 | 15 |
| 0107 | Stroke, M>26.15 and M<30.05 | 1.8114 | 1.5867 | 1.4773 | 1.4133 | 18 | 17 | 17 | 17 |
| 0108 | Stroke, M<26.15 and A>84.5 | 2.2985 | 2.0133 | 1.8745 | 1.7933 | 24 | 23 | 21 | 21 |
| 0109 | Stroke, M>22.35 and M<26.15 and A<84.5. | 2.0987 | 1.8383 | 1.7115 | 1.6374 | 21 | 20 | 19 | 19 |
| 0110 | Stroke, M<22.35 and A<84.5 | 2.7572 | 2.4151 | 2.2486 | 2.1512 | 27 | 27 | 24 | 24 |
| 0201 | Traumatic brain injury, M>53.35 and C>23.5. | 0.8167 | 0.6711 | 0.6056 | 0.5721 | 10 | 9 | 8 | 8 |
| 0202 | Traumatic brain injury, M>44.25 and M<53.35 and C>23.5. | 1.0578 | 0.8692 | 0.7844 | 0.7410 | 11 | 11 | 10 | 9 |
| 0203 | Traumatic brain injury, M>44.25 and C<23.5. | 1.2056 | 0.9906 | 0.8939 | 0.8445 | 11 | 12 | 10 | 11 |
| 0204 | Traumatic brain injury, M>40.65 and M<44.25. | 1.3276 | 1.0909 | 0.9844 | 0.9300 | 13 | 12 | 11 | 11 |
| 0205 | Traumatic brain injury, M>28.75 and M<40.65. | 1.5856 | 1.3028 | 1.1757 | 1.1107 | 15 | 15 | 14 | 13 |
| 0206 | Traumatic brain injury, M>22.05 and M<28.75. | 1.8996 | 1.5609 | 1.4086 | 1.3306 | 17 | 18 | 17 | 15 |
| 0207 | Traumatic brain injury, M<22.05 | 2.5249 | 2.0746 | 1.8722 | 1.7687 | 30 | 24 | 20 | 19 |
| 0301 | Non-traumatic brain injury, M>41.05 | 1.1140 | 0.9299 | 0.8528 | 0.7958 | 10 | 11 | 10 | 10 |
| 0302 | Non-traumatic brain injury, M>35.05 and M<41.05. | 1.3920 | 1.1620 | 1.0656 | 0.9943 | 13 | 13 | 12 | 12 |
| 0303 | Non-traumatic brain injury, M>26.15 and M<35.05. | 1.6177 | 1.3504 | 1.2384 | 1.1556 | 16 | 15 | 14 | 14 |

TABLE 1—RELATIVE WEIGHTS AND AVERAGE LENGTH OF STAY VALUES FOR CASE-MIX GROUPS—Continued

| CMG | CMG description (M=motor, C=cognitive, A=age) | Relative weight | | | | Average length of stay | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | Tier 1 | Tier 2 | Tier 3 | None | Tier 1 | Tier 2 | Tier 3 | None |
| 0304 | Non-traumatic brain injury, M<26.15 | 2.1480 | 1.7930 | 1.6443 | 1.5344 | 22 | 20 | 18 | 17 |
| 0401 | Traumatic spinal cord injury, M>48.45 | 0.9962 | 0.8479 | 0.7764 | 0.7177 | 10 | 10 | 9 | 10 |
| 0402 | Traumatic spinal cord injury, M>30.35 and M<48.45. | 1.4305 | 1.2175 | 1.1149 | 1.0306 | 14 | 14 | 14 | 13 |
| 0403 | Traumatic spinal cord injury, M>16.05 and M<30.35. | 2.2868 | 1.9463 | 1.7823 | 1.6475 | 27 | 22 | 19 | 20 |
| 0404 | Traumatic spinal cord injury, M<16.05 and A>63.5. | 3.8616 | 3.2865 | 3.0096 | 2.7820 | 44 | 36 | 32 | 33 |
| 0405 | Traumatic spinal cord injury, M<16.05 and A<63.5. | 3.4241 | 2.9142 | 2.6687 | 2.4668 | 41 | 34 | 29 | 28 |
| 0501 | Non-traumatic spinal cord injury, M>51.35. | 0.8671 | 0.6910 | 0.6416 | 0.5890 | 9 | 7 | 8 | 8 |
| 0502 | Non-traumatic spinal cord injury, M>40.15 and M<51.35. | 1.1417 | 0.9098 | 0.8448 | 0.7754 | 12 | 11 | 10 | 10 |
| 0503 | Non-traumatic spinal cord injury, M>31.25 and M<40.15. | 1.4429 | 1.1499 | 1.0676 | 0.9800 | 14 | 13 | 13 | 12 |
| 0504 | Non-traumatic spinal cord injury, M>29.25 and M<31.25. | 1.6605 | 1.3232 | 1.2286 | 1.1278 | 16 | 16 | 14 | 13 |
| 0505 | Non-traumatic spinal cord injury, M>23.75 and M<29.25. | 1.9434 | 1.5487 | 1.4379 | 1.3200 | 19 | 17 | 16 | 16 |
| 0506 | Non-traumatic spinal cord injury, M<23.75. | 2.7170 | 2.1652 | 2.0104 | 1.8454 | 27 | 24 | 22 | 21 |
| 0601 | Neurological, M>47.75 | 1.0388 | 0.8197 | 0.7649 | 0.6911 | 10 | 10 | 9 | 9 |
| 0602 | Neurological, M>37.35 and M<47.75 | 1.3344 | 1.0529 | 0.9825 | 0.8878 | 12 | 12 | 11 | 11 |
| 0603 | Neurological, M>25.85 and M<37.35 | 1.6570 | 1.3074 | 1.2201 | 1.1024 | 15 | 14 | 13 | 13 |
| 0604 | Neurological, M<25.85 | 2.1771 | 1.7178 | 1.6031 | 1.4485 | 20 | 18 | 17 | 16 |
| 0701 | Fracture of lower extremity, M>42.15 | 0.9663 | 0.8091 | 0.7663 | 0.6961 | 11 | 9 | 9 | 9 |
| 0702 | Fracture of lower extremity, M>34.15 and M<42.15. | 1.2542 | 1.0502 | 0.9947 | 0.9035 | 13 | 12 | 12 | 11 |
| 0703 | Fracture of lower extremity, M>28.15 and M<34.15. | 1.5016 | 1.2574 | 1.1909 | 1.0817 | 14 | 14 | 14 | 13 |
| 0704 | Fracture of lower extremity, M<28.15 | 1.9536 | 1.6359 | 1.5494 | 1.4073 | 18 | 18 | 17 | 16 |
| 0801 | Replacement of lower extremity joint, M>49.55. | 0.8023 | 0.6319 | 0.5733 | 0.5295 | 8 | 8 | 7 | 7 |
| 0802 | Replacement of lower extremity joint, M>37.05 and M<49.55. | 1.0579 | 0.8332 | 0.7560 | 0.6981 | 10 | 10 | 9 | 9 |
| 0803 | Replacement of lower extremity joint, M>28.65 and M<37.05 and A>83.5. | 1.4254 | 1.1227 | 1.0186 | 0.9407 | 13 | 12 | 12 | 11 |
| 0804 | Replacement of lower extremity joint, M>28.65 and M<37.05 and A<83.5. | 1.2747 | 1.0040 | 0.9109 | 0.8412 | 12 | 11 | 11 | 10 |
| 0805 | Replacement of lower extremity joint, M>22.05 and M<28.65. | 1.5372 | 1.2107 | 1.0985 | 1.0145 | 15 | 14 | 12 | 12 |
| 0806 | Replacement of lower extremity joint, M<22.05. | 1.9126 | 1.5064 | 1.3668 | 1.2622 | 17 | 17 | 15 | 14 |
| 0901 | Other orthopedic, M>44.75 | 0.9548 | 0.7679 | 0.7038 | 0.6416 | 10 | 9 | 9 | 8 |
| 0902 | Other orthopedic, M>34.35 and M<44.75. | 1.2720 | 1.0231 | 0.9377 | 0.8547 | 13 | 12 | 11 | 11 |
| 0903 | Other orthopedic, M>24.15 and M<34.35. | 1.5872 | 1.2767 | 1.1701 | 1.0666 | 14 | 14 | 13 | 13 |
| 0904 | Other orthopedic, M<24.15 | 2.0061 | 1.6136 | 1.4789 | 1.3481 | 19 | 18 | 16 | 16 |
| 1001 | Amputation, lower extremity, M>47.65 | 1.0786 | 0.9456 | 0.8420 | 0.7598 | 11 | 11 | 10 | 10 |
| 1002 | Amputation, lower extremity, M>36.25 and M<47.65. | 1.3378 | 1.1728 | 1.0443 | 0.9423 | 13 | 12 | 12 | 11 |
| 1003 | Amputation, lower extremity, M<36.25 | 1.9202 | 1.6835 | 1.4990 | 1.3526 | 18 | 19 | 17 | 16 |
| 1101 | Amputation, non-lower extremity, M>36.35. | 1.3537 | 1.3537 | 1.0753 | 1.0104 | 13 | 13 | 12 | 11 |
| 1102 | Amputation, non-lower extremity, M<36.35. | 1.7741 | 1.7741 | 1.4093 | 1.3242 | 16 | 19 | 15 | 16 |
| 1201 | Osteoarthritis, M>37.65 | 0.9828 | 0.9542 | 0.8689 | 0.8106 | 9 | 11 | 10 | 10 |
| 1202 | Osteoarthritis, M>30.75 and M<37.65 | 1.1972 | 1.1624 | 1.0585 | 0.9875 | 11 | 14 | 13 | 12 |
| 1203 | Osteoarthritis, M<30.75 | 1.4863 | 1.4431 | 1.3140 | 1.2259 | 14 | 16 | 15 | 14 |
| 1301 | Rheumatoid, other arthritis, M>36.35 | 1.1640 | 0.9591 | 0.9044 | 0.8258 | 9 | 11 | 10 | 10 |
| 1302 | Rheumatoid, other arthritis, M>26.15 and M<36.35. | 1.4812 | 1.2205 | 1.1509 | 1.0509 | 15 | 13 | 13 | 13 |
| 1303 | Rheumatoid, other arthritis, M<26.15 | 1.9711 | 1.6241 | 1.5314 | 1.3984 | 21 | 18 | 17 | 16 |
| 1401 | Cardiac, M>48.85 | 0.9070 | 0.7454 | 0.6741 | 0.6066 | 9 | 9 | 8 | 8 |
| 1402 | Cardiac, M>38.55 and M<48.85 | 1.2037 | 0.9893 | 0.8946 | 0.8050 | 11 | 11 | 11 | 10 |
| 1403 | Cardiac, M>31.15 and M<38.55 | 1.4509 | 1.1924 | 1.0783 | 0.9703 | 13 | 13 | 12 | 12 |
| 1404 | Cardiac, M<31.15 | 1.8350 | 1.5081 | 1.3637 | 1.2271 | 17 | 16 | 15 | 14 |
| 1501 | Pulmonary, M>49.25 | 1.0508 | 0.8465 | 0.7794 | 0.7499 | 11 | 10 | 9 | 9 |

TABLE 1—RELATIVE WEIGHTS AND AVERAGE LENGTH OF STAY VALUES FOR CASE-MIX GROUPS—Continued

| CMG | CMG description (M=motor, C=cognitive, A=age) | Relative weight | | | | Average length of stay | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | Tier 1 | Tier 2 | Tier 3 | None | Tier 1 | Tier 2 | Tier 3 | None |
| 1502 | Pulmonary, M>39.05 and M<49.25 | 1.3338 | 1.0745 | 0.9893 | 0.9519 | 12 | 12 | 11 | 11 |
| 1503 | Pulmonary, M>29.15 and M<39.05 | 1.6182 | 1.3036 | 1.2002 | 1.1549 | 15 | 13 | 13 | 13 |
| 1504 | Pulmonary, M<29.15 | 2.0127 | 1.6215 | 1.4928 | 1.4364 | 21 | 17 | 15 | 15 |
| 1601 | Pain syndrome, M>37.15 | 1.1408 | 0.8388 | 0.8240 | 0.7577 | 11 | 10 | 10 | 9 |
| 1602 | Pain syndrome, M>26.75 and M<37.15 | 1.4837 | 1.0909 | 1.0718 | 0.9854 | 14 | 12 | 12 | 12 |
| 1603 | Pain syndrome, M<26.75 | 1.9166 | 1.4093 | 1.3845 | 1.2730 | 15 | 15 | 15 | 15 |
| 1701 | Major multiple trauma without brain or spinal cord injury, M>39.25. | 1.0739 | 0.9109 | 0.8312 | 0.7736 | 10 | 10 | 11 | 9 |
| 1702 | Major multiple trauma without brain or spinal cord injury, M>31.05 and M<39.25. | 1.3886 | 1.1779 | 1.0748 | 1.0002 | 13 | 14 | 12 | 12 |
| 1703 | Major multiple trauma without brain or spinal cord injury, M>25.55 and M<31.05. | 1.5890 | 1.3479 | 1.2299 | 1.1446 | 19 | 15 | 14 | 14 |
| 1704 | Major multiple trauma without brain or spinal cord injury, M<25.55. | 2.0894 | 1.7724 | 1.6172 | 1.5051 | 21 | 20 | 18 | 17 |
| 1801 | Major multiple trauma with brain or spinal cord injury, M>40.85. | 1.2728 | 0.9643 | 0.8811 | 0.7840 | 14 | 12 | 11 | 10 |
| 1802 | Major multiple trauma with brain or spinal cord injury, M>23.05 and M<40.85. | 1.8675 | 1.4148 | 1.2928 | 1.1503 | 19 | 17 | 15 | 14 |
| 1803 | Major multiple trauma with brain or spinal cord injury, M<23.05. | 3.0253 | 2.2920 | 2.0942 | 1.8635 | 31 | 26 | 21 | 21 |
| 1901 | Guillain Barre, M>35.95 | 1.1501 | 0.9999 | 0.9724 | 0.8501 | 15 | 11 | 11 | 11 |
| 1902 | Guillain Barre, M>18.05 and M<35.95 | 2.2469 | 1.9534 | 1.8997 | 1.6609 | 25 | 22 | 21 | 20 |
| 1903 | Guillain Barre, M<18.05 | 3.6057 | 3.1347 | 3.0485 | 2.6652 | 48 | 31 | 28 | 30 |
| 2001 | Miscellaneous, M>49.15 | 0.9280 | 0.7626 | 0.7034 | 0.6367 | 9 | 9 | 9 | 8 |
| 2002 | Miscellaneous, M>38.75 and M<49.15 | 1.2002 | 0.9863 | 0.9097 | 0.8235 | 11 | 11 | 10 | 10 |
| 2003 | Miscellaneous, M>27.85 and M<38.75 | 1.4940 | 1.2277 | 1.1324 | 1.0250 | 14 | 14 | 13 | 12 |
| 2004 | Miscellaneous, M<27.85 | 1.9243 | 1.5813 | 1.4586 | 1.3203 | 18 | 17 | 16 | 15 |
| 2101 | Burns, M>0 | 1.6922 | 1.6922 | 1.3135 | 1.2742 | 18 | 19 | 15 | 15 |
| 5001 | Short-stay cases, length of stay is 3 days or fewer. | ..... | ..... | ..... | 0.1562 | ..... | ..... | ..... | 2 |
| 5101 | Expired, orthopedic, length of stay is 13 days or fewer. | ..... | ..... | ..... | 0.7204 | ..... | ..... | ..... | 8 |
| 5102 | Expired, orthopedic, length of stay is 14 days or more. | ..... | ..... | ..... | 1.6962 | ..... | ..... | ..... | 18 |
| 5103 | Expired, not orthopedic, length of stay is 15 days or fewer. | ..... | ..... | ..... | 0.7928 | ..... | ..... | ..... | 9 |
| 5104 | Expired, not orthopedic, length of stay is 16 days or more. | ..... | ..... | ..... | 1.9018 | ..... | ..... | ..... | 20 |

Generally, updates to the CMG relative weights result in some increases and some decreases to the CMG relative weight values. Table 2 shows how we estimate that the application of the proposed revisions for FY 2016 would affect particular CMG relative weight values, which would affect the overall distribution of payments within CMGs and tiers. Note that, because we propose to implement the CMG relative weight revisions in a budget-neutral manner (as previously described), total estimated aggregate payments to IRFs for FY 2016 would not be affected as a result of the proposed CMG relative weight revisions. However, the proposed revisions would affect the distribution of payments within CMGs and tiers.

TABLE 2—DISTRIBUTIONAL EFFECTS OF THE CHANGES TO THE CMG RELATIVE WEIGHTS

[FY 2015 values compared with FY 2016 values]

| Percentage change | Number of cases affected | Percentage of cases affected |
|---|---|---|
| Increased by 15% or more | 157 | 0.0 |
| Increased by between 5% and 15% | 2,292 | 0.6 |
| Changed by less than 5% | 353,020 | 99.0 |
| Decreased by between 5% and 15% | 1,195 | 0.3 |
| Decreased by 15% or more | 63 | 0.0 |

As Table 2 shows, 99 percent of all IRF cases are in CMGs and tiers that would experience less than a 5 percent change (either increase or decrease) in the CMG relative weight value as a result of the proposed revisions for FY 2016. The largest estimated increase in the proposed CMG relative weight values that affects the largest number of

IRF discharges would be a 0.2 percent increase in the CMG relative weight value for CMG 0704—Fracture of lower extremity, with a motor score less than 28.15-in the ''no comorbidity'' tier. In the FY 2014 claims data, 17,812 IRF discharges (5.0 percent of all IRF discharges) were classified into this CMG and tier.

The largest decrease in a CMG relative weight value affecting the largest number of IRF cases would be a 0.8 percent decrease in the CMG relative weight for CMG 0604—Neurological, with a motor score less than 25.85-in the ''no comorbidity'' tier. In the FY 2014 IRF claims data, this change would have affected 8,544 cases (2.4 percent of all IRF cases).

The proposed changes in the average length of stay values for FY 2016, compared with the FY 2015 average length of stay values, are small and do not show any particular trends in IRF length of stay patterns.

We invite public comment on our proposed update to the CMG relative weights and average length of stay values for FY 2016.

## IV. Continued Use of FY 2014 Facility-Level Adjustment Factors

Section 1886(j)(3)(A)(v) of the Act confers broad authority upon the Secretary to adjust the per unit payment rate ''by such . . . factors as the Secretary determines are necessary to properly reflect variations in necessary costs of treatment among rehabilitation facilities.'' Under this authority, we currently adjust the federal prospective payment amount associated with a CMG to account for facility-level characteristics such as an IRF's LIP, teaching status, and location in a rural area, if applicable, as described in § 412.624(e).

Based on the substantive changes to the facility-level adjustment factors that were adopted in the FY 2014 final rule (79 FR 45872, 45882 through 45883), we froze the facility-level adjustment factors at the FY 2014 levels for FY 2015 and all subsequent years. For FY 2016, we will continue to hold the adjustment factors at the FY 2014 levels as we continue to monitor the most current IRF claims data available and continue to evaluate and monitor the effects of the FY 2014 changes.

## V. Proposed FY 2016 IRF PPS Payment Update

### *A. Background*

Section 1886(j)(3)(C) of the Act requires the Secretary to establish an increase factor that reflects changes over time in the prices of an appropriate mix of goods and services included in the covered IRF services, which is referred to as a market basket index. According to section 1886(j)(3)(A)(i) of the Act, the increase factor shall be used to update the IRF federal prospective payment rates for each FY. Section 1886(j)(3)(C)(ii)(I) of the Act requires the application of a productivity adjustment, as described below. In addition, sections 1886(j)(3)(C)(ii)(II) and 1886(j)(3)(D)(iv) of the Act require the application of a 0.2 percentage point reduction to the market basket increase factor for FY 2016. Thus, in this proposed rule, we propose to update the IRF PPS payments for FY 2016 by a market basket increase factor based upon the most current data available, with a productivity adjustment as required by section 1886(j)(3)(C)(ii)(I) of the Act, and a 0.2 percentage point reduction as required by sections 1886(j)(3)(C)(ii)(II) and 1886(j)(3)(D)(iv) of the Act.

We have utilized various market baskets through the years in the IRF PPS program. When we implemented the IRF PPS in January 2002, it used the Excluded Hospital with Capital market basket (which was based on 1992 Medicare cost reports for Medicare participating IRFs, IPFs, LTCHs, cancer hospitals, and children's hospitals) as an ''input price index'' (66 FR 41427 through 41430). Although ''market basket'' technically describes the mix of goods and services used in providing health care at a given point in time, this term is also commonly used to denote the input price index (that is, cost category weights and price proxies) derived from that market basket. Accordingly, the term ''market basket,'' as used in this document, refers to an input price index.

Beginning with the FY 2006 IRF PPS final rule (70 FR 47908), we adopted a 2002-based RPL market basket for the IRF PPS. This market basket reflected the operating and capital cost structures for freestanding IRFs, freestanding IPFs, and LTCHs. Cancer and children's hospitals were excluded from the RPL market basket because their payments are based entirely on reasonable costs subject to rate-of-increase limits established under the authority of section 1886(b) of the Act and not through a PPS. Also, the 2002 cost structures for cancer and children's hospitals were noticeably different than the cost structures of freestanding IRFs, freestanding IPFs, and LTCHs. See the FY 2006 IRF PPS final rule (70 FR 47908) for a complete discussion of the 2002-based RPL market basket.

In the FY 2010 IRF proposed rule (74 FR 21062), we expressed an interest in exploring the feasibility of creating a stand-alone IRF, or IRF-specific, market basket that reflects the cost structures of only IRF providers. But, as we noted in that discussion, Medicare cost report data revealed differences between cost levels and cost structures for freestanding and hospital-based IRF facilities. As we were unable at that time to fully understand these differences even after reviewing explanatory variables such as geographic variation, case mix, urban/rural status, share of low income patients, teaching status, and outliers (short stay and high-cost), we noted that we would continue to research ways to reconcile the differences and solicited public comment for additional information that might help us to better understand the reasons for the observed variations (74 FR 21062). We summarized the public comments we received and our responses in the FY 2010 IRF PPS final rule (74 FR 39762, 39776 through 39778). Despite receiving comments from the public on this issue, however, we were still unable to sufficiently reconcile the observed variations, and, therefore, were unable to establish a stand-alone IRF market basket at that time.

Beginning with the FY 2012 IRF PPS, payments were updated using a 2008-based RPL market basket reflecting the operating and capital cost structures for freestanding IRFs, freestanding IPFs, and LTCHs (76 FR 47849 through 47860). In doing so, we also used a more specific composite chemical price proxy; broke the professional fees cost category into two separate categories (Labor-related and Nonlabor-related); and added two additional cost categories (Administrative and Business Support Services and Financial Services), which were previously included in the residual All Other cost category. The FY 2012 IRF PPS proposed rule (76 FR 24229 through 24241) and FY 2012 IRF PPS final rule (76 FR 47849 through 47860) contain a complete discussion of the development of the 2008-based RPL market basket.

We have continued to work on addressing our concerns regarding the development of a stand-alone IRF market basket since our FY 2010 rulemaking cycle and, for the reasons described below, we believe using data from hospital-based and freestanding providers to derive the market basket cost weights despite their differences in cost levels and cost structures. Therefore, for FY 2016, we are proposing to create and adopt a 2012-based IRF market basket, using Medicare cost report data for both freestanding and hospital-based IRFs. In

the following discussion, we provide an overview of the proposed market basket and describe the methodologies used to determine the operating and capital portions of the proposed 2012-based IRF market basket.

*B. Overview of the Proposed 2012-Based IRF Market Basket*

The proposed 2012-based IRF market basket is a fixed-weight, Laspeyres-type price index. A Laspeyres price index measures the change in price, over time, of the same mix of goods and services purchased in the base period. Any changes in the quantity or mix of goods and services (that is, intensity) purchased over time relative to a base period are not measured.

The index itself is constructed in 3 steps. First, a base period is selected (in this proposed rule the base period is FY 2012), total base period costs are estimated for a set of mutually exclusive and exhaustive cost categories, and the proportion of total costs that each cost category represents is calculated. These proportions are called cost weights. Second, each cost category is matched to an appropriate price or wage variable, referred to as a price proxy. In nearly every instance where we have selected price proxies for the various market baskets, these price proxies are derived from publicly available statistical series that are published on a consistent schedule (preferably at least on a quarterly basis). In cases where a publicly available price series is not available (for example, a price index for malpractice insurance), we have collected price data from other sources and subsequently developed our own index to capture changes in prices for these types of costs. Finally, the cost weight for each cost category is multiplied by the established price proxy. The sum of these products (that is, the cost weights multiplied by their price levels) for all cost categories yields the composite index level of the market basket for the given time period. Repeating this step for other periods produces a series of market basket levels over time. Dividing the composite index level of one period by the composite index level for an earlier period produces a rate of growth in the input price index over that timeframe.

As previously noted, the market basket is described as a fixed-weight index because it represents the change in price over time of a constant mix (quantity and intensity) of goods and services needed to furnish IRF services. The effects on total costs resulting from changes in the mix of goods and services purchased subsequent to the base period are not measured. For example, an IRF hiring more nurses to accommodate the needs of patients would increase the volume of goods and services purchased by the IRF, but would not be factored into the price change measured by a fixed-weight IRF market basket. Only when the index is rebased would changes in the quantity and intensity be captured, with those changes being reflected in the cost weights. Therefore, we rebase the market basket periodically so that the cost weights reflect recent changes in the mix of goods and services that IRFs purchase (hospital inputs) to furnish inpatient care between base periods.

*C. Creating an IRF-Specific Market Basket*

As discussed in section V.A of this proposed rule, we have been exploring the possibility of creating a stand-alone, or IRF-specific, market basket that reflects the cost structures of only IRF providers. The major cost weights for the 2008-based RPL market basket were calculated using Medicare cost report data for those providers that complete a stand-alone Medicare cost report. We define a ''major cost weight'' as one for which we are able to obtain data from the Medicare cost report for that particular cost category (for example, Wages and Salaries). However, the Medicare cost report data does not collect detailed input cost data for the more detailed cost categories for which we would like to capture input price pressures (for example, Chemicals). Therefore, a public data source is used to identify the costs associated with these more detailed cost categories. For the 2008-based RPL market basket, we used only data from stand-alone Medicare cost reports due to concerns regarding our ability to incorporate Medicare cost report data for hospital-based providers. In the FY 2015 IRF PPS final rule (79 FR 45884 through 45886), we presented several of these concerns (as restated below) but explained that we would continue to research the possibility of creating an IRF-specific market basket to update IRF PPS payments.

Since the FY 2015 IRF PPS final rule, we have performed additional research on the Medicare cost report data available for hospital-based IRFs and evaluated these concerns. We subsequently concluded from this research that Medicare cost report data for both hospital-based IRFs and freestanding IRFs can be used to calculate the major market basket cost weights for a stand-alone IRF market basket. We have developed a detailed methodology to derive market basket cost weights that are representative of the universe of IRF providers. We believe the use of this proposed 2012-based IRF market basket is a technical improvement over the RPL market basket that is currently used to update IRF PPS payments. As a result, in this FY 2016 IRF PPS proposed rule, we are proposing to adopt a 2012-based IRF market basket that reflects data for both freestanding and hospital-based IRFs. Below we discuss our prior concerns and provide reasons for why we believe it is technically feasible to create a stand-alone IRF market basket using Medicare cost report data for both hospital-based and freestanding IRFs.

One concern discussed in the FY 2015 IRF PPS final rule (79 FR 45884) was that the cost level differences for hospital-based IRFs relative to freestanding IRFs were not readily explained by the specific characteristics of the individual providers and/or the patients that they served (for example, characteristics related to case mix, urban/rural status, or teaching status). To address this concern, we used regression analysis to evaluate the effect of including hospital-based IRF Medicare cost report data in the calculation of cost distributions (which refers to how costs for certain categories relate to total costs for a particular provider). A more detailed description of these regression models can be found in the FY 2015 IRF final rule (79 FR 45884 through 45885). Based on this analysis, we concluded that the inclusion of those IRF providers with unexplained variability in costs would not significantly impact the cost weights and, therefore, should not be a major cause of concern.

Another concern regarding the incorporation of hospital-based IRF data into the calculation of the market basket cost weights was the complexity of the Medicare cost report data for these providers. The freestanding IRFs independently submit a Medicare cost report for their facilities, making it relatively straightforward to obtain the cost categories necessary to determine the major market basket cost weights for such facilities. However, Medicare cost report data submitted for a hospital-based IRF are embedded in the Medicare cost report submitted for the entire hospital facility in which the IRF is located. To use Medicare cost report data from these providers, we needed to determine the appropriate adjustments to apply to the data to ensure that the cost weights we use would represent only the hospital-based IRF (not the hospital as a whole). Over the past year, we worked to develop detailed methodologies to calculate the major cost weights for both freestanding and

hospital-based IRFs. We believe that our proposed methodologies and the resulting cost weights, described in section V.C.1 of this proposed rule, are reasonable and appropriate, but, as noted in that section, we welcome public comments on these proposals.

We also evaluated the differences in cost weights for hospital-based and freestanding IRFs and found the most significant differences occurred for salary and pharmaceutical costs. Specifically, the hospital-based IRF salary cost shares tend to be lower than those of freestanding IRFs while hospital-based IRF pharmaceutical cost shares tend to be higher than those of freestanding IRFs. Our proposed methodology for deriving costs for each of these categories can be found in section V.C.1 of this proposed rule. We will continue to research and monitor these cost shares to ensure these differences are explainable.

In summary, our research over the past year allowed us to evaluate the appropriateness of including hospital-based IRF data in the calculation of the major cost weights for an IRF market basket. We believe that the proposed methodologies described below give us the ability to create a stand-alone IRF market basket that reflects the cost structure of the universe of IRF providers. Therefore, we believe that the use of this proposed 2012-based IRF market basket to update IRF PPS payments is a technical improvement over the current 2008-based RPL market basket, as the major cost weights are based on Medicare cost report data from both freestanding and hospital-based IRFs and do not include costs from either IPF or LTCH providers, which could have a different cost structure than IRFs.

1. Development of Cost Categories and Weights for the Proposed 2012-Based IRF Market Basket

a. Use of Medicare Cost Report Data

The proposed 2012-based IRF market basket consists of seven major cost categories derived from the FY 2012 Medicare cost reports (CMS Form 2552–10) for freestanding and hospital-based IRFs, consisting of Wages and Salaries, Employee Benefits, Contract Labor, Pharmaceuticals, Professional Liability Insurance (PLI), Capital, and a residual category. The residual category reflects all remaining costs that are not captured in the other six cost categories. The FY 2012 cost reports include providers whose cost reporting period began on or after October 1, 2011, and prior to September 30, 2012. We selected FY 2012 as the base year because the Medicare cost reports for that year were the most recent, complete set of Medicare cost report data available for IRFs at the time of development of the proposed IRF market basket.

Since our goal was to establish cost weights that were reflective of case mix and practice patterns associated with the services IRFs provide to Medicare beneficiaries, we limited the cost reports used to establish the 2012-based IRF market basket to those from facilities that had a Medicare average length of stay (LOS) that was relatively similar to their facility average LOS. We believe that this trim eliminates statistical outliers and ensures a more accurate market basket that reflects the costs generally incurred during a Medicare-covered stay. We defined the Medicare average LOS for freestanding IRFs based on what the IRFs reported on line 14 of Worksheet S–3, Part I. We defined the Medicare average LOS for hospital-based IRFs based on what was reported on line 17 of Worksheet S–3, Part I. We then used the cost reports from IRFs with a Medicare average LOS within 15 percent (that is, 15 percent higher or lower) than the facility average LOS for IRFs to establish the 2012-based IRF market basket. We apply this LOS edit to the data for IRFs to exclude providers that serve a population whose LOS would indicate that the patients served are not consistent with a LOS of a typical Medicare patient. This process resulted in the exclusion of about eight percent of the freestanding and hospital-based IRF Medicare cost reports. Of those excluded, about 18 percent were freestanding IRFs and 82 percent were hospital-based IRFs. This ratio is relatively consistent with the ratio of the universe of freestanding to hospital-based IRF providers. In the FY 2012 IRF PPS final rule (76 FR 47850), the same process was used to derive the 2008-based RPL market basket.

We then used the cost reports for IRFs that were not excluded through this process to calculate the costs for six of the seven major cost categories (Wages and Salaries, Employee Benefits, Contract Labor, Professional Liability Insurance, Pharmaceuticals, and Capital) for the market basket.

Similar to the 2008-based RPL market basket major cost weights, the resulting 2012-based IRF market basket cost weights reflect Medicare allowable costs (routine, ancillary and capital)—costs that are eligible for reimbursement through the IRF PPS. We propose to define Medicare allowable costs for freestanding facilities as cost centers (CMS Form 2552–10): 30 through 35, 50 through 76 (excluding 52 and 75), 90 through 91 and 93. We propose to define Medicare allowable costs for hospital-based facilities as cost centers (CMS Form 2552–10): 40, 50 through 76 (excluding 52 and 75), 90 through 91 and 93.

For freestanding IRFs, total Medicare allowable costs would be equal to the total costs as reported on Worksheet B, part I, column 26. For hospital-based IRFs, total Medicare allowable costs would be equal to total costs for the IRF inpatient unit after the allocation of overhead costs (Worksheet B, part I, column 26, line 41) and a proportion of total ancillary costs. We calculated the portion of ancillary costs attributable to the hospital-based IRF for a given ancillary cost center by multiplying total facility ancillary costs for the specific cost center (as reported on Worksheet B, Part I, column 26) by the ratio of IRF Medicare ancillary costs for the cost center (as reported on Worksheet D–3, column 3 for hospital-based IRFs) to total Medicare ancillary costs for the cost center (equal to the sum of Worksheet D–3, column 3 for all relevant PPS (that is, IPPS, IRF, IPF and SNF)). We propose to use these methods to derive levels of total costs for IRF providers. With this work complete, we then set about deriving cost levels for six of the seven major cost categories.

(i) Wages and Salaries Costs

For freestanding IRFs, Wages and Salaries costs are derived as the sum of inpatient salaries, ancillary salaries and a proportion of overhead (or general service cost center) salaries as reported on Worksheet A, column 1. Since overhead salary costs are attributable to the entire IRF, we only include the proportion attributable to the Medicare allowable cost centers. We estimate the proportion of overhead salaries that are attributed to Medicare allowable costs centers by multiplying the ratio of Medicare allowable area salaries to total salaries (Worksheet A, column 1, line 200) times total overhead salaries. In the FY 2012 IRF PPS final rule (76 FR 47850), a similar methodology was used to derive Wages and Salaries costs in the 2008-based RPL market basket.

For hospital-based IRFs, Wages and Salaries costs are derived as the sum of inpatient unit wages and salaries (Worksheet A, column 1, line 41) and a portion of salary costs attributable to total facility ancillary and overhead cost centers as these cost centers are shared with the entire facility. We calculate the portion of ancillary salaries attributable to the hospital-based IRF for a given ancillary cost center by multiplying total facility ancillary salary costs for the specific cost center (as reported on Worksheet A, column 1) by the ratio of

IRF Medicare ancillary costs for the cost center (as reported on Worksheet D–3, column 3 for hospital-based IRFs) to total Medicare ancillary costs for the cost center (equal to the sum of Worksheet D–3, column 3 for all relevant PPS units [that is, IPPS, IRF, IPF and SNF]). For example, if hospital-based IRF Medicare physical therapy costs represent 30 percent of the total Medicare physical therapy costs for the entire facility, then 30 percent of total facility physical therapy salaries (as reported in Worksheet A, column 1, line 66) would be attributable to the hospital-based IRF. We believe it is appropriate to use only a portion of the ancillary costs in the market basket cost weight calculations since the hospital-based IRF only utilizes a portion of the facility's ancillary services. We believe the ratio of reported IRF Medicare costs to reported total Medicare costs provides a reasonable estimate of the ancillary services utilized, and costs incurred, by the hospital-based IRF.

We calculate the portion of overhead salary costs attributable to hospital-based IRFs by multiplying the total overhead costs attributable to the hospital-based IRF (sum of columns 4–18 on Worksheet B, part I, line 41) by the ratio of total facility overhead salaries (as reported on Worksheet A, column 1, lines 4–18) to total facility overhead costs (as reported on Worksheet A, column 7, lines 4–18). This methodology assumes the proportion of total costs related to salaries for the overhead cost center is similar for all inpatient units (that is, acute inpatient or inpatient rehabilitation). Since the 2008-based RPL market basket did not include hospital-based providers, this proposed methodology cannot be compared to the derivation of Wages and Salaries costs in the RPL market basket.

(ii) Employee Benefits Costs

Effective with our implementation of CMS Form 2552–10, we began collecting Employee Benefits and Contract Labor data on Worksheet S–3, Part V. Previously, with CMS Form 2540–96, Employee Benefits and Contract Labor data were reported on Worksheet S–3, part II, which was applicable to only IPPS providers and, therefore, these data were not available for the derivation of the RPL market basket. Due to the lack of such data, the Employee Benefits cost weight for the 2008-based RPL market basket was derived by multiplying the 2008-based RPL market basket Wages and Salaries cost weight by the ratio of the IPPS hospital market basket Employee Benefits cost weight to the IPPS hospital market basket Wages and Salaries cost weight. Similarly, the Contract Labor cost weight for the 2008-based RPL market basket was derived by multiplying the 2008-based RPL market basket Wages and Salaries cost weight by the ratio of the IPPS hospital market basket Contract Labor cost weight to the IPPS hospital market basket Wages and Salaries cost weight (*see* FY 2012 IRF PPS final rule (76 FR 47850 through 47851)).

For FY 2012 Medicare cost report data, while there were providers that did report data on Worksheet S–3, part V, many providers did not complete this worksheet. However, our analysis indicates that we had a large enough sample to enable us to produce a reasonable Employee Benefits cost weight. Specifically, we found that when we recalculated the cost weight after weighting to reflect the characteristics of the universe of IRF providers (freestanding and hospital-based), it did not have a material effect on the resulting cost weight. We continue to encourage all providers to report these data on the Medicare cost report.

For freestanding IRFs, Employee Benefits costs are equal to the data reported on Worksheet S–3, Part V, line 2, column 2.

For hospital-based IRFs, we calculate total benefits as the sum of benefit costs reported on Worksheet S–3 Part V, line 4, column 2, and a portion of ancillary benefits and overhead benefits for the total facility. Ancillary benefits attributable to the hospital-based IRF are calculated by multiplying ancillary salaries for the hospital-based IRF as determined in the derivation of Wages and Salaries for the hospital-based IRF by the ratio of total facility benefits to total facility salaries. Similarly, overhead benefits attributable to the hospital-based IRF are calculated by multiplying overhead salaries for the hospital-based IRF as determined in the derivation of Wages and Salaries for the hospital-based IRF by the ratio of total facility benefits to total facility salaries.

(iii) Contract Labor Costs

Similar to the RPL and IPPS market baskets, Contract Labor costs are primarily associated with direct patient care services. Contract labor costs for services such as accounting, billing, and legal are estimated using other government data sources. As previously discussed in the Employee Benefits section, we now have data reported on Worksheet S–3, Part V that we can use to derive the Contract Labor cost weight for the 2012-based IRF market basket. As previously noted, for FY 2012 Medicare cost report data, while there were providers that did report data on Worksheet S–3, part V, many providers did not complete this worksheet. However, our analysis indicates that we had a large enough sample to enable us to produce a reasonable Contract Labor cost weight. Specifically, we found that when we recalculated the cost weight after weighting to reflect the characteristics of the universe of IRF providers (freestanding and hospital-based), it did not have a material effect on the resulting cost weight. We continue to encourage all providers to report these data on the Medicare cost report.

For freestanding IRFs, Contract Labor costs are based on data reported on Worksheet S–3, part V, column 1, line 2, and for hospital-based IRFs, Contract Labor costs are based on line 4 of this same worksheet.

(iv) Pharmaceuticals Costs

For freestanding IRFs, pharmaceuticals costs are based on non-salary costs reported on Worksheet A, column 7, less Worksheet A, column 1, for the pharmacy cost center (line 15) and drugs charged to patients cost center (line 73).

For hospital-based IRFs, pharmaceuticals costs are based on a portion of the non-salary pharmacy costs and a portion of the non-salary drugs charged to patient costs reported for the total facility. Non-salary pharmacy costs attributable to the hospital-based IRF are calculated by multiplying total pharmacy costs attributable to the hospital-based IRF (as reported on Worksheet B, column 15, line 41) by the ratio of total non-salary pharmacy costs (Worksheet A, column 2, line 15) to total pharmacy costs (sum of Worksheet A, column 1 and 2 for line 15) for the total facility. Non-salary drugs charged to patient costs attributable to the hospital-based IRF are calculated by multiplying total non-salary drugs charged to patient costs (Worksheet B, part I, column 0, line 73, plus Worksheet B, part I, column 15, line 73, less Worksheet A, column 1, line 73) for the total facility by the ratio of Medicare drugs charged to patient ancillary costs for the IRF unit (as reported on Worksheet D–3 for hospital-based IRFs, line 73, column 3) to total Medicare drugs charged to patient ancillary costs for the total facility (equal to the sum of Worksheet D–3, line 73, column 3, for all relevant PPS (that is, IPPS, IRF, IPF and SNF)).

(v) Professional Liability Insurance Costs

For freestanding IRFs, Professional Liability Insurance (PLI) costs (often referred to as malpractice costs) are equal to premiums, paid losses and self-insurance costs reported on Worksheet S–2, line 118, columns 1 through 3. For hospital-based IRFs, we assume that the PLI weight for the total facility is similar to the hospital-based IRF unit since the only data reported on this worksheet is for the entire facility, as we currently have no means to identify the proportion of total PLI costs that are only attributable to the hospital-based IRF. Therefore, hospital-based IRF PLI costs are equal to total facility PLI (as reported on Worksheet S–2, line 118, columns 1 through 3) divided by total facility costs (as reported on Worksheet A, line 200) times hospital-based IRF Medicare allowable total costs. We welcome comments on this proposed method of deriving the PLI costs for hospital-based IRFs.

(vi) Capital Costs

For freestanding IRFs, capital costs are equal to Medicare allowable capital costs as reported on Worksheet B, Part II, column 26.

For hospital-based IRFs, capital costs are equal to IRF inpatient capital costs (as reported on Worksheet B, part II, column 26, line 41) and a portion of IRF ancillary capital costs. We calculate the portion of ancillary capital costs attributable to the hospital-based IRF for a given cost center by multiplying total facility ancillary capital costs for the specific ancillary cost center (as reported on Worksheet B, Part II, column 26) by the ratio of IRF Medicare ancillary costs for the cost center (as reported on Worksheet D–3, column 3 for hospital-based IRFs) to total Medicare ancillary costs for the cost center (equal to the sum of Worksheet D–3, column 3 for all relevant PPS (that is, IPPS, IRF, IPF and SNF). For example, if hospital-based IRF Medicare physical therapy costs represent 30 percent of the total Medicare physical therapy costs for the entire facility, then 30 percent of total facility physical therapy capital costs (as reported in Worksheet B, part II, column 26, line 66) would be attributable to the hospital-based IRF.

b. Final Major Cost Category Computation

After we derived costs for the six major cost categories for each provider using the Medicare cost report data as previously described, we address data outliers using the following steps. First, we divide the costs for each of the six categories by total Medicare allowable costs calculated for the provider to obtain cost weights for the universe of IRF providers. We then remove those providers whose derived cost weights fall in the top and bottom five percent of provider specific derived cost weights to ensure the removal of outliers. After the outliers have been removed, we sum the costs for each category across all remaining providers. We then divide this by the sum of total Medicare allowable costs across all remaining providers to obtain a cost weight for the proposed 2012-based IRF market basket for the given category. Finally, we calculate the residual ''All Other'' cost weight that reflects all remaining costs that are not captured in the six cost categories listed. See Table 3 for the resulting cost weights for these major cost categories that we obtain from the Medicare cost reports.

TABLE 3—MAJOR COST CATEGORIES AS DERIVED FROM MEDICARE COST REPORTS

| Major cost categories | 2012-based IRF (percent) | 2008-based RPL (percent) |
|---|---|---|
| Wages and Salaries | 45.5 | 47.4 |
| Employee Benefits [1] | 10.7 | 12.3 |
| Contract Labor [1] | 0.8 | 2.6 |
| Professional Liability Insurance (Malpractice) | 0.9 | 0.8 |
| Pharmaceuticals | 5.1 | 6.5 |
| Capital | 8.6 | 8.4 |
| All Other | 28.4 | 22.0 |

* Total may not sum to 100 due to rounding.
[1] Due to the lack of Medicare cost report data, the Employee Benefits and Contract Labor cost weights in the 2008-based RPL market basket were based on the IPPS market basket.

The Wages and Salaries cost weight obtained directly from the Medicare cost reports for the proposed 2012-based IRF market basket is approximately 2 percentage points lower than the Wages and Salaries cost weight for the 2008-based RPL market basket. This is primarily a result of the inclusion of hospital-based IRF data into the 2012-based IRF market basket. The lower Employee Benefits and Contract Labor cost weights in the 2012-based IRF market basket relative to the 2008-based RPL market basket are due to the incorporation of freestanding and hospital-based IRF specific data. The predecessor 2008-based RPL market basket used the IPPS market basket to derive the Employee Benefits and Contract Labor cost weights due to the lack of data on the Medicare cost reports. The lower pharmaceutical cost weight in the proposed 2012-based IRF market basket relative to the 2008-based RPL market basket is mostly due to freestanding IRFs; the hospital-based IRFs pharmaceuticals cost weight is almost twice as large as the freestanding IRF pharmaceuticals cost weight.

As we did for the 2008-based RPL market basket, we propose to allocate the Contract Labor cost weight to the Wages and Salaries and Employee Benefits cost weights based on their relative proportions under the assumption that contract labor costs are comprised of both wages and salaries and employee benefits. The Contract Labor allocation proportion for Wages and Salaries is equal to the Wages and Salaries cost weight as a percent of the sum of the Wages and Salaries cost weight and the Employee Benefits cost weight. This rounded percentage is 81 percent; therefore, we propose to allocate 81 percent of the Contract Labor cost weight to the Wages and Salaries cost weight and 19 percent to the Employee Benefits cost weight. Table 4 shows the Wages and Salaries and Employee Benefit cost weights after Contract Labor cost weight allocation for both the proposed 2012-based IRF market basket and 2008-based RPL market basket.

TABLE 4—WAGES AND SALARIES AND EMPLOYEE BENEFITS COST WEIGHTS AFTER CONTRACT LABOR ALLOCATION

| Major cost categories | 2012-based IRF | 2008-based RPL |
|---|---|---|
| Wages and Salaries | 46.1 | 49.4 |
| Employee Benefits | 10.9 | 12.8 |

c. Derivation of the Detailed Operating Cost Weights

To further divide the ''All Other'' residual cost weight estimated from the FY 2012 Medicare cost report data into more detailed cost categories, we propose to use the 2007 Benchmark Input-Output (I–O) ''Use Tables/Before Redefinitions/Purchaser Value'' for NAICS 622000, Hospitals, published by the Bureau of Economic Analysis (BEA). This data is publicly available at the following Web site: *http://www.bea.gov/industry/io_annual.htm*

The BEA Benchmark I–O data are scheduled for publication every five years with the most recent data available for 2007. The 2007 Benchmark I–O data are derived from the 2007 Economic Census and are the building blocks for BEA's economic accounts. Thus, they represent the most comprehensive and complete set of data on the economic processes or mechanisms by which output is produced and distributed.[1] BEA also produces Annual I–O estimates; however, while based on a similar methodology, these estimates reflect less comprehensive and less detailed data sources and are subject to revision when benchmark data becomes available. Instead of using the less detailed Annual I–O data, we inflate the 2007 Benchmark I–O data forward to 2012 by applying the annual price changes from the respective price proxies to the appropriate market basket cost categories that are obtained from the 2007 Benchmark I–O data. We repeat this practice for each year. We then calculate the cost shares that each cost category represents of the inflated 2012 data. These resulting 2012 cost shares are applied to the All Other residual cost weight to obtain the detailed cost weights for the proposed 2012-based IRF market basket. For example, the cost for Food: Direct Purchases represents 6.5 percent of the sum of the ''All Other'' 2007 Benchmark I–O Hospital Expenditures inflated to 2012; therefore, the Food: Direct Purchases cost weight represents 6.5 percent of the 2012-based IRF market basket's ''All Other'' cost category (28.4 percent), yielding a ''final'' Food: Direct Purchases cost weight of 1.8 percent in the proposed 2012-based IRF market basket (0.065 * 28.4 percent = 1.8 percent).

Using this methodology, we derive eighteen detailed IRF market basket cost category weights from the proposed 2012-based IRF market basket residual cost weight (28.4 percent). These categories are: (1) Electricity, (2) Fuel, Oil, and Gasoline (3) Water & Sewerage (4) Food: Direct Purchases, (5) Food: Contract Services, (6) Chemicals, (7) Medical Instruments, (8) Rubber & Plastics, (9) Paper and Printing Products, (10) Miscellaneous Products, (11) Professional Fees: Labor-related, (12) Administrative and Facilities Support Services, (13) Installation, Maintenance, and Repair, (14) All Other Labor-related Services, (15) Professional Fees: Nonlabor-related, (16) Financial Services, (17) Telephone Services, and (18) All Other Nonlabor-related Services.

d. Derivation of the Detailed Capital Cost Weights

As described in section V.C.1.a.6 of this proposed rule, we are proposing a Capital-Related cost weight of 8.6 percent as obtained from the FY 2012 Medicare cost reports for freestanding and hospital-based IRF providers. We are proposing to then separate this total Capital-Related cost weight into more detailed cost categories.

Using FY 2012 Medicare cost reports, we are able to group Capital-Related costs into the following categories: Depreciation, Interest, Lease, and Other Capital-Related costs. For each of these categories, we are proposing to determine separately for hospital-based IRFs and freestanding IRFs what proportion of total capital-related costs the category represents.

For freestanding IRFs, we are proposing to derive the proportions for Depreciation, Interest, Lease, and Other Capital-related costs using the data reported by the IRF on Worksheet A–7, which is similar to the methodology used for the 2008-based RPL market basket.

For hospital-based IRFs, data for these four categories are not reported separately for the hospital-based IRF; therefore, we are proposing to derive these proportions using data reported on Worksheet A–7 for the total facility. We are assuming the cost shares for the overall hospital are representative for the hospital-based IRF unit. For example, if depreciation costs make up 60 percent of total capital costs for the entire facility, we believe it is reasonable to assume that the hospital-based IRF would also have a 60 percent proportion because it is a unit contained within the total facility.

To combine each detailed capital cost weight for freestanding and hospital-based IRFs into a single capital cost weight for the proposed 2012-based IRF market basket, we are proposing to weight together the shares for each of the categories (Depreciation, Interest, Lease, and Other Capital-related costs) based on the share of total capital costs each provider type represents of the total capital costs for all IRFs for 2012. Applying this methodology, results in proportions of total capital-related costs for Depreciation, Interest, Lease and Other Capital-related costs that are representative of the universe of IRF providers.

We are also proposing to allocate lease costs across each of the remaining detailed capital-related cost categories as was done in the 2008-based RPL market basket. This would result in three primary capital-related cost categories in the proposed 2012-based IRF market basket: Depreciation, Interest, and Other Capital-Related costs. Lease costs are unique in that they are not broken out as a separate cost category in the proposed 2012-based IRF market basket. Rather, we are proposing to proportionally distribute these costs among the cost categories of Depreciation, Interest, and Other Capital-Related, reflecting the assumption that the underlying cost structure of leases is similar to that of capital-related costs in general. As was done under the 2008-based RPL market basket, we are proposing to assume that 10 percent of the lease costs as a proportion of total capital-related costs represents overhead and assign those costs to the Other Capital-Related cost category accordingly. We propose to distribute the remaining lease costs proportionally across the three cost categories (Depreciation, Interest, and Other Capital-Related) based on the proportion that these categories comprise of the sum of the Depreciation,

[1] *http://www.bea.gov/papers/pdf/IOmanual_092906.pdf*

Interest, and Other Capital-related cost categories (excluding lease expenses). This is the same methodology used for the 2008-based RPL market basket. The allocation of these lease expenses are shown in Table 5.

Finally, we are proposing to further divide the Depreciation and Interest cost categories. We are proposing to separate Depreciation into the following two categories: (1) Building and Fixed Equipment and (2) Movable Equipment; and proposing to separate Interest into the following two categories: (1) Government/Nonprofit and (2) For-profit.

To disaggregate the Depreciation cost weight, we need to determine the percent of total Depreciation costs for IRFs that is attributable to Building and Fixed Equipment, which we hereafter refer to as the ''fixed percentage.'' For the proposed 2012-based IRF market basket, we are proposing to use slightly different methods to obtain the fixed percentages for hospital-based IRFs compared to freestanding IRFs.

For freestanding IRFs, we are proposing to use depreciation data from Worksheet A–7 of the FY 2012 Medicare cost reports, similar to the methodology used for the 2008-based RPL market basket. However, for hospital-based IRFs, we determined that the fixed percentage for the entire facility may not be representative of the hospital-based IRF unit due to the entire facility likely employing more sophisticated movable assets that are not utilized by the hospital-based IRF. Therefore, for hospital-based IRFs, we are proposing to calculate a fixed percentage using: (1) Building and fixture capital costs allocated to the hospital-based IRF unit as reported on Worksheet B, part I line 41 and (2) building and fixture capital costs for the top five ancillary cost centers utilized by hospital-based IRFs. We propose to weight these two fixed percentages (inpatient and ancillary) using the proportion that each capital cost type represents of total capital costs in the proposed 2012-based IRF market basket. We are proposing to then weight the fixed percentages for hospital-based and freestanding IRFs together using the proportion of total capital costs each provider type represents.

To disaggregate the Interest cost weight, we need to determine the percent of total interest costs for IRFs that are attributable to government and nonprofit facilities, which we hereafter refer to as the ''nonprofit percentage,'' as price pressures associated with these types of interest costs tend to differ from those for for-profit facilities. For the IRF market basket, we are proposing to use interest costs data from Worksheet A–7 of the FY 2012 Medicare cost reports for both freestanding and hospital-based IRFs, similar to the methodology used for the 2008-based RPL market basket. We are proposing to determine the percent of total interest costs that are attributed to government and nonprofit IRFs separately for hospital-based and freestanding IRFs. We then are proposing to weight the nonprofit percentages for hospital-based and freestanding IRFs together using the proportion of total capital costs that each provider type represents.

Table 5 provides the detailed capital cost shares obtained from the Medicare cost reports. Ultimately, these detailed capital cost shares are applied to the total Capital-Related cost weight determined in section V.C.1.a.6 of this proposed rule to split out the total weight of 8.6 percent into more detailed cost categories and weights.

TABLE 5—DETAILED CAPITAL COST WEIGHTS FOR THE PROPOSED 2012-BASED IRF MARKET BASKET

| | Cost shares obtained from medicare cost reports (percent) | Proposed detailed capital cost shares after allocation of lease expenses (percent) |
|---|---|---|
| Depreciation | 61 | 74 |
| Building and Fixed Equipment | 39 | 48 |
| Movable Equipment | 22 | 26 |
| Interest | 13 | 16 |
| Government/Nonprofit | 8 | 10 |
| For Profit | 5 | 6 |
| Lease | 20 | n/a |
| Other | 6 | 10 |

e. Proposed 2012-Based IRF Market Basket Cost Categories and Weights

Table 6 shows the cost categories and weights for the proposed 2012-based IRF market basket compared to the 2008-based RPL market basket.

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**Table 6 – Proposed 2012-based IRF Cost Weights Compared to 2008-based RPL Cost Weights**

| Cost Category | Proposed 2012-based IRF Cost Weight | 2008-based RPL Cost Weight |
|---|---|---|
| **Total** | **100.0** | **100.0** |
| **Compensation** | **57.0** | **62.3** |
| Wages and Salaries | 46.1 | 49.4 |
| Employee Benefits | 10.9 | 12.8 |
| **Utilities** | **2.3** | **1.6** |
| Electricity | 1.0 | 1.1 |
| Fuel, Oil, and Gasoline | 1.1 | 0.4 |
| Water & Sewerage | 0.1 | 0.1 |
| **Professional Liability Insurance** | **0.9** | **0.8** |
| **All Other Products and Services** | **31.2** | **27.0** |
| **All Other Products** | **14.0** | **15.6** |
| Pharmaceuticals | 5.1 | 6.5 |
| Food: Direct Purchases | 1.8 | 3.0 |
| Food: Contract Services | 1.1 | 0.4 |
| Chemicals | 0.7 | 1.1 |
| Medical Instruments | 2.5 | 1.8 |
| Rubber & Plastics | 0.6 | 1.1 |
| Paper and Printing Products | 1.2 | 1.0 |
| Apparel | - | 0.2 |
| Machinery and Equipment | - | 0.1 |
| Miscellaneous Products | 0.9 | 0.3 |
| **All Other Services** | **17.2** | **11.4** |
| **Labor-Related Services** | **8.8** | **4.7** |
| Professional Fees: Labor-related | 3.8 | 2.1 |
| Administrative and Facilities Support Services | 0.9 | 0.4 |
| Installation, Maintenance, and Repair | 2.1 | - |
| All Other: Labor-related Services | 2.0 | 2.1 |
| **Nonlabor-Related Services** | **8.5** | **6.7** |
| Professional Fees: Nonlabor-related | 3.4 | 4.2 |
| Financial services | 3.0 | 0.9 |
| Telephone Services | 0.7 | 0.4 |
| Postage | - | 0.6 |
| All Other: Nonlabor-related Services | 1.4 | 0.6 |

| Cost Category | Proposed 2012-based IRF Cost Weight | 2008-based RPL Cost Weight |
|---|---|---|
| **Capital-Related Costs** | **8.6** | **8.4** |
| **Depreciation** | **6.4** | **5.5** |
| Fixed Assets | 4.1 | 3.3 |
| Movable Equipment | 2.3 | 2.2 |
| **Interest Costs** | **1.4** | **2.0** |
| Government/Nonprofit | 0.9 | 0.7 |
| For Profit | 0.5 | 1.3 |
| **Other Capital-Related Costs** | **0.8** | **0.9** |

* Detail may not add to total due to rounding.

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The proposed 2012-based IRF market basket does not include separate cost categories for Apparel, Machinery & Equipment, and Postage. Due to the small weights associated with these detailed categories and relatively stable price growth in the applicable price proxy, we are proposing to include Apparel and Machinery & Equipment in the Miscellaneous Products cost category and Postage in the All-Other Nonlabor-related Services. We note that these Machinery & Equipment expenses are for equipment that is paid for in a given year and not depreciated over the asset's useful life. Depreciation expenses for movable equipment are reflected in the Capital-related costs of the proposed 2012-based IRF market basket. For the proposed 2012-based IRF market basket, we are also proposing to include a separate cost category for Installation, Maintenance, and Repair.

2. Selection of Price Proxies

After developing the cost weights for the proposed 2012-based IRF market basket, we selected the most appropriate wage and price proxies currently available to represent the rate of price change for each expenditure category. For the majority of the cost weights, we base the price proxies on U.S. Bureau of Labor Statistics (BLS) data and group them into one of the following BLS categories:

• *Employment Cost Indexes.* Employment Cost Indexes (ECIs) measure the rate of change in employment wage rates and employer costs for employee benefits per hour worked. These indexes are fixed-weight indexes and strictly measure the change in wage rates and employee benefits per hour. ECIs are superior to Average Hourly Earnings (AHE) as price proxies for input price indexes because they are not affected by shifts in occupation or industry mix, and because they measure pure price change and are available by both occupational group and by industry. The industry ECIs are based on the North American Industry Classification System (NAICS), and the occupational ECIs are based on the Standard Occupational Classification System (SOC).

• *Producer Price Indexes.* Producer Price Indexes (PPIs) measure price changes for goods sold in other than retail markets. PPIs are used when the purchases of goods or services are made at the wholesale level.

• *Consumer Price Indexes.* Consumer Price Indexes (CPIs) measure change in the prices of final goods and services bought by consumers. CPIs are only used when the purchases are similar to those of retail consumers rather than purchases at the wholesale level, or if no appropriate PPIs are available.

We evaluated the price proxies using the criteria of reliability, timeliness, availability, and relevance:

• *Reliability.* Reliability indicates that the index is based on valid statistical methods and has low sampling variability. Widely accepted statistical methods ensure that the data were collected and aggregated in a way that can be replicated. Low sampling variability is desirable because it indicates that the sample reflects the typical members of the population. (Sampling variability is variation that occurs by chance because only a sample was surveyed rather than the entire population.)

• *Timeliness.* Timeliness implies that the proxy is published regularly, preferably at least once a quarter. The market baskets are updated quarterly, and therefore, it is important for the underlying price proxies to be up-to-date, reflecting the most recent data available. We believe that using proxies that are published regularly (at least quarterly, whenever possible) helps to ensure that we are using the most recent data available to update the market basket. We strive to use publications that are disseminated frequently, because we believe that this is an optimal way to stay abreast of the most current data available.

• *Availability.* Availability means that the proxy is publicly available. We prefer that our proxies are publicly available because this will help ensure that our market basket updates are as transparent to the public as possible. In addition, this enables the public to be able to obtain the price proxy data on a regular basis.

• *Relevance.* Relevance means that the proxy is applicable and representative of the cost category weight to which it is applied. The CPIs, PPIs, and Employment Cost Index (ECIs) that we have selected to propose in this regulation meet these criteria. Therefore, we believe that they continue to be the best measure of price changes for the cost categories to which they would be applied.

Table 6 lists all price proxies for the proposed 2012-based IRF market basket. Below is a detailed explanation of the price proxies we are proposing for each cost category weight. We note that many of the proxies for the 2012-based IRF market basket are the same as those used for the FY 2008-based RPL market basket. For further discussion on the FY 2008-based RPL market basket, see the FY 2012 IRF final rule (76 FR 47852 through 47860).

a. Price Proxies for the Operating Portion of the Proposed 2012-Based IRF Market Basket

1. Wages and Salaries

We are proposing to continue to use the ECI for Wages and Salaries for All Civilian workers in Hospitals (BLS series code #CIU1026220000000I) to measure the wage rate growth of this cost category. This is the same price proxy used in the 2008-based RPL market basket.

2. Benefits

We are proposing to continue to use the ECI for Total Benefits for All Civilian workers in Hospitals to measure price growth of this category. This ECI is calculated using the ECI for Total Compensation for All Civilian workers in Hospitals (BLS series code # CIU1016220000000I) and the relative importance of wages and salaries within total compensation. This is the same price proxy used in the 2008-based RPL market basket.

3. Electricity

We are proposing to continue to use the PPI for Commercial Electric Power (BLS series code #WPU0542) to measure the price growth of this cost category. This is the same price proxy used in the 2008-based RPL market basket.

4. Fuel, Oil, and Gasoline

We are proposing to change the proxy used for the Fuel, Oil, and Gasoline cost category. The 2008-based RPL market basket uses the PPI for Petroleum Refineries (BLS series code #PCU32411–32411) to proxy these expenses.

For the proposed 2012-based IRF market basket, we are proposing to use a blend of the PPI for Petroleum Refineries and the PPI Commodity for Natural Gas (BLS series code #WPU0531). Our analysis of the Bureau of Economic Analysis' 2007 Benchmark Input-Output data (use table before redefinitions, purchaser's value for NAICS 622000 [Hospitals]), shows that Petroleum Refineries expenses accounts for approximately 70 percent and Natural Gas accounts for approximately 30 percent of the Fuel, Oil, and Gasoline expenses. Therefore, we propose a blend using of 70 percent of the PPI for Petroleum Refineries (BLS series code #PCU32411–32411) and 30 percent of the PPI Commodity for Natural Gas (BLS series code #WPU0531). We believe that these 2 price proxies are the most technically appropriate indices available to measure the price growth of the Fuel, Oil, and Gasoline cost category in the proposed 2012-based IRF market basket.

5. Water and Sewerage

We are proposing to continue to use the CPI for Water and Sewerage Maintenance (BLS series code #CUUR0000SEHG01) to measure the price growth of this cost category. This is the same proxy used in the 2008-based RPL market basket.

6. Professional Liability Insurance

We are proposing to continue to use the CMS Hospital Professional Liability Index to measure changes in PLI premiums. To generate this index, we collect commercial insurance premiums for a fixed level of coverage while holding non-price factors constant (such as a change in the level of coverage). This is the same proxy used in the 2008-based RPL market basket.

7. Pharmaceuticals

We are proposing to continue to use the PPI for Pharmaceuticals for Human Use, Prescription (BLS series code #WPUSI07003) to measure the price growth of this cost category. This is the same proxy used in the 2008-based RPL market basket.

8. Food: Direct Purchases

We are proposing to continue to use the PPI for Processed Foods and Feeds (BLS series code #WPU02) to measure the price growth of this cost category. This is the same proxy used in the 2008-based RPL market basket.

9. Food: Contract Purchases

We are proposing to continue to use the CPI for Food Away From Home (BLS series code #CUUR0000SEFV) to measure the price growth of this cost category. This is the same proxy used in the 2008-based RPL market basket.

10. Chemicals

We are proposing to continue to use a four part blended PPI composed of the PPI for Industrial Gas Manufacturing (BLS series code PCU325120325120P), the PPI for Other Basic Inorganic Chemical Manufacturing (BLS series code #PCU32518–32518), the PPI for Other Basic Organic Chemical Manufacturing (BLS series code #PCU32519–32519), and the PPI for Soap and Cleaning Compound Manufacturing (BLS series code #PCU32561–32561). We propose updating the blend weights using 2007 Benchmark I–O data, which compared to 2002 Benchmark I–O data is weighted more toward organic chemical products and weighted less toward inorganic chemical products.

Table 7 shows the proposed weights for each of the four PPIs used to create the blended PPI. These are the same four proxies used in the 2008-based RPL market basket; however, the blended PPI weights in the 2008-based RPL market baskets were based on 2002 Benchmark I–O data.

TABLE 7—BLENDED CHEMICAL PPI WEIGHTS

| Name | Proposed 2012-based IRF weights (percent) | 2008-based RPL weights (percent) | NAICS |
|---|---|---|---|
| PPI for Industrial Gas Manufacturing | 32 | 35 | 325120 |
| PPI for Other Basic Inorganic Chemical Manufacturing | 17 | 25 | 325180 |
| PPI for Other Basic Organic Chemical Manufacturing | 45 | 30 | 325190 |
| PPI for Soap and Cleaning Compound Manufacturing | 6 | 10 | 325610 |

11. Medical Instruments

We are proposing to use a blend for the Medical Instruments cost category. The 2007 Benchmark Input-Output data shows an approximate 50/50 split between Surgical and Medical Instruments and Medical and Surgical Appliances and Supplies for this cost category. Therefore, we propose a blend composed of 50 percent of the commodity-based PPI for Surgical and Medical Instruments (BLS code #WPU1562) and 50 percent of the commodity-based PPI for Medical and Surgical Appliances and Supplies (BLS code #WPU1563). The 2008-based RPL market basket uses the single, higher level PPI for Medical, Surgical, and Personal Aid Devices (BLS series code #WPU156).

12. Rubber and Plastics

We are proposing to continue to use the PPI for Rubber and Plastic Products (BLS series code #WPU07) to measure price growth of this cost category. This is the same proxy used in the 2008-based RPL market basket.

13. Paper and Printing Products

We are proposing to continue to use the PPI for Converted Paper and Paperboard Products (BLS series code #WPU0915) to measure the price growth of this cost category. This is the same proxy used in the 2008-based RPL market basket.

14. Miscellaneous Products

We are proposing to continue to use the PPI for Finished Goods Less Food and Energy (BLS series code #WPUSOP3500) to measure the price growth of this cost category. This is the same proxy used in the 2008-based RPL market basket.

15. Professional Fees: Labor-Related

We are proposing to continue to use the ECI for Total Compensation for Private Industry workers in Professional and Related (BLS series code #CIU2010000120000I) to measure the price growth of this category. This is the same proxy used in the 2008-based RPL market basket.

16. Administrative and Facilities Support Services

We are proposing to continue to use the ECI for Total Compensation for Private Industry workers in Office and Administrative Support (BLS series code #CIU2010000220000I) to measure the price growth of this category. This is the same proxy used in the 2008-based RPL market basket.

17. Installation, Maintenance, and Repair

We are proposing to use the ECI for Total Compensation for Civilian workers in Installation, Maintenance, and Repair (BLS series code #CIU1010000430000I) to measure the price growth of this new cost category. Previously these costs were included in the All Other: Labor-related Services category and were proxied by the ECI for Total Compensation for Private Industry workers in Service Occupations (BLS series code #CIU2010000300000I). We believe that this index better reflects the price changes of labor associated with maintenance-related services and its incorporation represents a technical improvement to the market basket.

18. All Other: Labor-Related Services

We are proposing to continue to use the ECI for Total Compensation for Private Industry workers in Service Occupations (BLS series code #CIU2010000300000I) to measure the price growth of this cost category. This is the same proxy used in the 2008-based RPL market basket.

19. Professional Fees: Nonlabor-Related

We are proposing to continue to use the ECI for Total Compensation for Private Industry workers in Professional and Related (BLS series code #CIU2010000120000I) to measure the price growth of this category. This is the same proxy used in the 2008-based RPL market basket.

20. Financial Services

We are proposing to continue to use the ECI for Total Compensation for Private Industry workers in Financial Activities (BLS series code #CIU201520A000000I) to measure the price growth of this cost category. This is the same proxy used in the 2008-based RPL market basket.

21. Telephone Services

We are proposing to continue to use the CPI for Telephone Services (BLS series code #CUUR0000SEED) to measure the price growth of this cost category. This is the same proxy used in the 2008-based RPL market basket.

22. All Other: Nonlabor-Related Services

We are proposing to continue to use the CPI for All Items Less Food and Energy (BLS series code #CUUR0000SA0L1E) to measure the price growth of this cost category. This is the same proxy used in the 2008-based RPL market basket.

b. Price Proxies for the Capital Portion of the Proposed 2012-Based IRF Market Basket

1. Capital Price Proxies Prior to Vintage Weighting

We are proposing to apply the same price proxies to the detailed capital-related cost categories as were applied in the 2008-based RPL market basket, which are provided in Table 7 and described below. We are also proposing to continue to vintage weight the capital price proxies for Depreciation and Interest to capture the long-term consumption of capital. This vintage weighting method is similar to the method used for the 2008-based RPL market basket and is described in section V.C.2.b.2 of this proposed rule.

We are proposing to proxy the Depreciation: Building and Fixed Equipment cost category by BEA's Chained Price Index for Nonresidential Construction for Hospitals and Special Care Facilities (BEA Table 5.4.4. Price Indexes for Private Fixed Investment in Structures by Type), the Depreciation: Movable Equipment cost category by the PPI for Machinery and Equipment (BLS series code #WPU11), the Nonprofit Interest cost category by the average yield on domestic municipal bonds (Bond Buyer 20-bond index), the For-profit Interest cost category by the average yield on Moody's Aaa bonds (Federal Reserve), and the Other Capital-Related cost category by the CPI–U for Rent of Primary Residence (BLS series code #CUUS0000SEHA). We believe these are the most appropriate proxies for IRF capital-related costs that meet our selection criteria of relevance, timeliness, availability, and reliability.

2. Vintage Weights for Price Proxies

Because capital is acquired and paid for over time, capital-related expenses in any given year are determined by both past and present purchases of physical and financial capital. The vintage-weighted capital-related portion of the proposed 2012-based IRF market basket is intended to capture the long-term consumption of capital, using vintage weights for depreciation (physical capital) and interest (financial capital). These vintage weights reflect the proportion of capital-related purchases attributable to each year of the expected life of building and fixed equipment, movable equipment, and interest. We are proposing to use vintage weights to compute vintage-weighted price changes associated with depreciation and interest expenses.

Capital-related costs are inherently complicated and are determined by complex capital-related purchasing decisions, over time, based on such factors as interest rates and debt financing. In addition, capital is depreciated over time instead of being consumed in the same period it is purchased. By accounting for the vintage nature of capital, we are able to provide an accurate and stable annual measure of price changes. Annual non-vintage price changes for capital are unstable due to the volatility of interest rate changes and, therefore, do not reflect the actual annual price changes for IRF capital-related costs. The capital-related component of the proposed 2012-based IRF market basket reflects the underlying stability of the capital-related acquisition process.

To calculate the vintage weights for depreciation and interest expenses, we first need a time series of capital-related purchases for building and fixed

equipment and movable equipment. We found no single source that provides an appropriate time series of capital-related purchases by hospitals for all of the above components of capital purchases. The early Medicare cost reports did not have sufficient capital-related data to meet this need. Data we obtained from the American Hospital Association (AHA) do not include annual capital-related purchases. However, we are able to obtain data on total expenses back to 1963 from the AHA. Consequently, we are proposing to use data from the AHA Panel Survey and the AHA Annual Survey to obtain a time series of total expenses for hospitals. We are then proposing to use data from the AHA Panel Survey supplemented with the ratio of depreciation to total hospital expenses obtained from the Medicare cost reports to derive a trend of annual depreciation expenses for 1963 through 2012. We propose to separate these depreciation expenses into annual amounts of building and fixed equipment depreciation and movable equipment depreciation as determined earlier. From these annual depreciation amounts we derive annual end-of-year book values for building and fixed equipment and movable equipment using the expected life for each type of asset category. While data is not available that is specific to IRFs, we believe this information for all hospitals serves as a reasonable alternative for the pattern of depreciation for IRFs.

To continue to calculate the vintage weights for depreciation and interest expenses, we also need to account for the expected lives for Building and Fixed Equipment, Movable Equipment, and Interest for the proposed 2012-based IRF market basket. We are proposing to calculate the expected lives using Medicare cost report data from freestanding and hospital-based IRFs. The expected life of any asset can be determined by dividing the value of the asset (excluding fully depreciated assets) by its current year depreciation amount. This calculation yields the estimated expected life of an asset if the rates of depreciation were to continue at current year levels, assuming straight-line depreciation. We are proposing to determine the expected life of building and fixed equipment separately for hospital-based IRFs and freestanding IRFs, and then weight these expected lives using the percent of total capital costs each provider type represents. We are proposing to apply a similar method for movable equipment. Using these proposed methods, we determined the average expected life of building and fixed equipment to be equal to 23 years, and the average expected life of movable equipment to be equal to 11 years. For the expected life of interest, we believe vintage weights for interest should represent the average expected life of building and fixed equipment because, based on previous research described in the FY 1997 IPPS final rule (61 FR 46198), the expected life of hospital debt instruments and the expected life of buildings and fixed equipment are similar. We note that for the 2008-based RPL market basket, we used FY 2008 Medicare cost reports for IPPS hospitals to determine the expected life of building and fixed equipment and movable equipment (76 FR 51763). The 2008-based RPL market basket was based on an expected average life of building and fixed equipment of 26 years and an expected average life of movable equipment of 11 years, which were both calculated using data for IPPS hospitals.

Multiplying these expected lives by the annual depreciation amounts results in annual year-end asset costs for building and fixed equipment and movable equipment. We then calculate a time series, beginning in 1964, of annual capital purchases by subtracting the previous year's asset costs from the current year's asset costs.

For the building and fixed equipment and movable equipment vintage weights, we are proposing to use the real annual capital-related purchase amounts for each asset type to capture the actual amount of the physical acquisition, net of the effect of price inflation. These real annual capital-related purchase amounts are produced by deflating the nominal annual purchase amount by the associated price proxy as provided earlier in this proposed rule. For the interest vintage weights, we are proposing to use the total nominal annual capital-related purchase amounts to capture the value of the debt instrument (including, but not limited to, mortgages and bonds). Using these capital-related purchase time series specific to each asset type, we are proposing to calculate the vintage weights for building and fixed equipment, for movable equipment, and for interest.

The vintage weights for each asset type are deemed to represent the average purchase pattern of the asset over its expected life (in the case of building and fixed equipment and interest, 23 years, and in the case of movable equipment, 11 years). For each asset type, we used the time series of annual capital-related purchase amounts available from 2012 back to 1964. These data allow us to derive twenty-seven 23-year periods of capital-related purchases for building and fixed equipment and interest, and thirty-nine 11-year periods of capital-related purchases for movable equipment. For each 23-year period for building and fixed equipment and interest, or 11-year period for movable equipment, we calculate annual vintage weights by dividing the capital-related purchase amount in any given year by the total amount of purchases over the entire 23-year or 11-year period. This calculation is done for each year in the 23-year or 11-year period and for each of the periods for which we have data. We then calculate the average vintage weight for a given year of the expected life by taking the average of these vintage weights across the multiple periods of data. The vintage weights for the capital-related portion of the 2008-based RPL market basket and the proposed 2012-based IRF market basket are presented in Table 8.

TABLE 8—2008-BASED RPL MARKET BASKET AND PROPOSED 2012-BASED IRF MARKET BASKET VINTAGE WEIGHTS FOR CAPITAL-RELATED PRICE PROXIES

| Year | Building and fixed equipment | | Movable equipment | | Interest | |
|---|---|---|---|---|---|---|
| | 2012-based 23 years | 2008-based 26 years | 2012-based 11 years | 2008-based 11 years | 2012-based 23 years | 2008-based 26 years |
| 1 | 0.029 | 0.021 | 0.069 | 0.071 | 0.017 | 0.010 |
| 2 | 0.031 | 0.023 | 0.073 | 0.075 | 0.019 | 0.012 |
| 3 | 0.034 | 0.025 | 0.077 | 0.080 | 0.022 | 0.014 |
| 4 | 0.036 | 0.027 | 0.083 | 0.083 | 0.024 | 0.016 |
| 5 | 0.037 | 0.028 | 0.087 | 0.085 | 0.026 | 0.018 |
| 6 | 0.039 | 0.030 | 0.091 | 0.089 | 0.028 | 0.020 |
| 7 | 0.040 | 0.031 | 0.096 | 0.092 | 0.030 | 0.021 |

TABLE 8—2008-BASED RPL MARKET BASKET AND PROPOSED 2012-BASED IRF MARKET BASKET VINTAGE WEIGHTS FOR CAPITAL-RELATED PRICE PROXIES—Continued

| Year | Building and fixed equipment | | Movable equipment | | Interest | |
|---|---|---|---|---|---|---|
| | 2012-based 23 years | 2008-based 26 years | 2012-based 11 years | 2008-based 11 years | 2012-based 23 years | 2008-based 26 years |
| 8 | 0.041 | 0.033 | 0.100 | 0.098 | 0.032 | 0.024 |
| 9 | 0.042 | 0.035 | 0.103 | 0.103 | 0.035 | 0.026 |
| 10 | 0.044 | 0.037 | 0.107 | 0.109 | 0.038 | 0.029 |
| 11 | 0.045 | 0.039 | 0.114 | 0.116 | 0.040 | 0.033 |
| 12 | 0.045 | 0.041 | | | 0.042 | 0.035 |
| 13 | 0.045 | 0.042 | | | 0.044 | 0.038 |
| 14 | 0.046 | 0.043 | | | 0.046 | 0.041 |
| 15 | 0.046 | 0.044 | | | 0.048 | 0.043 |
| 16 | 0.048 | 0.045 | | | 0.053 | 0.046 |
| 17 | 0.049 | 0.046 | | | 0.057 | 0.049 |
| 18 | 0.050 | 0.047 | | | 0.060 | 0.052 |
| 19 | 0.051 | 0.047 | | | 0.063 | 0.053 |
| 20 | 0.051 | 0.045 | | | 0.066 | 0.053 |
| 21 | 0.051 | 0.045 | | | 0.067 | 0.055 |
| 22 | 0.050 | 0.045 | | | 0.069 | 0.056 |
| 23 | 0.052 | 0.046 | | | 0.073 | 0.060 |
| 24 | | 0.046 | | | | 0.063 |
| 25 | | 0.045 | | | | 0.064 |
| 26 | | 0.046 | | | | 0.068 |
| Total | 1.000 | 1.000 | 1.000 | 1.000 | 1.000 | 1.000 |

Note: Numbers may not add to total due to rounding.

The process of creating vintage-weighted price proxies requires applying the vintage weights to the price proxy index where the last applied vintage weight in Table 8 is applied to the most recent data point. We have provided on the CMS Web site an example of how the vintage weighting price proxies are calculated, using example vintage weights and example price indices. The example can be found at the following link: *http://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/MedicareProgramRatesStats/MarketBasketResearch.html* in the zip file titled ''Weight Calculations as described in the IPPS FY 2010 Proposed Rule.''

c. Summary of Price Proxies of the Proposed 2012-Based IRF Market Basket

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## Table 9: Price Proxies for the Proposed 2012-based IRF Market Basket

| Cost Description | Price Proxies | Weight |
|---|---|---|
| **Total - IRF12** | | **100.0%** |
| **Compensation** | | **57.0%** |
| Wages and Salaries | ECI for Wages and Salaries for All Civilian workers in Hospitals | 46.1% |
| Employee Benefits | ECI for Total Benefits for All Civilian workers in Hospitals | 10.9% |
| **Utilities** | | **2.3%** |
| Electricity | PPI for Commercial Electric Power | 1.0% |
| Fuel, Oil, and Gasoline | Blend of the PPI for Petroleum Refineries and PPI for Natural Gas | 1.1% |
| Water & Sewage | CPI-U for Water and Sewerage Maintenance | 0.1% |
| **Professional Liability Insurance** | | **0.9%** |
| Malpractice | CMS Hospital Professional Liability Insurance Premium Index | 0.9% |
| **All Other Products and Services** | | **31.2%** |
| **All Other Products** | | **14.0%** |
| Pharmaceuticals | PPI for Pharmaceuticals for human use, prescription | 5.1% |
| Food: Direct Purchases | PPI for Processed Foods and Feeds | 1.8% |
| Food: Contract Services | CPI-U for Food Away From Home | 1.1% |
| Chemicals | Blend of Chemical PPIs | 0.7% |
| Medical Instruments | Blend of the PPI for Surgical and medical instruments and PPI for Medical and surgical appliances and supplies | 2.5% |
| Rubber & Plastics | PPI for Rubber and Plastic Products | 0.6% |
| Paper and Printing Products | PPI for Converted Paper and Paperboard Products | 1.2% |
| Miscellaneous Products | PPI for Finished Goods Less Food and Energy | 0.9% |
| **All Other Services** | | **17.2%** |
| **Labor-Related Services** | | **8.8%** |
| Professional Fees: Labor-related | ECI for Total compensation for Private industry workers in Professional and related | 3.8% |
| Administrative and Facilities Support Services | ECI for Total compensation for Private industry workers in Office and administrative support | 0.9% |
| Installation, Maintenance & Repair | ECI for Total compensation for Civilian workers in Installation, maintenance, and repair | 2.1% |
| All Other: Labor-related Services | ECI for Total compensation for Private industry workers in Service occupations | 2.0% |
| **Nonlabor-Related Services** | | **8.5%** |
| Professional Fees: Nonlabor-related | ECI for Total compensation for Private industry workers in Professional and related | 3.4% |
| Financial services | ECI for Total compensation for Private industry workers in Financial activities | 3.0% |
| Telephone Services | CPI-U for Telephone Services | 0.7% |
| All Other: Nonlabor-related Services | CPI-U for All Items Less Food and Energy | 1.4% |
| **Capital-Related Costs** | | **8.6%** |
| **Depreciation** | | **6.4%** |
| Fixed Assets | BEA chained price index for nonresidential construction for hospitals and special care facilities - vintage weighted (23 years) | 4.1% |
| Movable Equipment | PPI for machinery and equipment - vintage weighted (11 years) | 2.3% |
| **Interest Costs** | | **1.4%** |

| Cost Description | Price Proxies | Weight |
|---|---|---|
| Government/Nonprofit | Average yield on domestic municipal bonds (Bond Buyer 20 bonds) - vintage weighted (23 years) | 0.9% |
| For Profit | Average yield on Moody's Aaa bonds - vintage weighted (23 years) | 0.5% |
| **Other Capital-Related Costs** | CPI-U for Rent of primary residence | **0.8%** |

Note: Totals may not sum to 100.0 percent due to rounding

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*D. Proposed FY 2016 Market Basket Update and Productivity Adjustment*

1. Proposed FY 2016 Market Basket Update

For FY 2016, we are proposing to use the proposed 2012-based IRF market basket increase factor described in section V.C. of this proposed rule to update the IRF PPS base payment rate. Consistent with historical practice, we estimate the market basket update for the IRF PPS based on IHS Global Insight's forecast using the most recent available data. IHS Global Insight (IGI), Inc. is a nationally recognized economic and financial forecasting firm with which CMS contracts to forecast the components of the market baskets and multifactor productivity (MFP).

Based on IGI's first quarter 2015 forecast with historical data through the fourth quarter of 2014, the projected proposed 2012-based IRF market basket increase factor for FY 2016 would be 2.7 percent. Therefore, consistent with our historical practice of estimating market basket increases based on the best available data, we are proposing a market basket increase factor of 2.7 percent for FY 2016. We are also proposing that if more recent data are subsequently available (for example, a more recent estimate of the market basket) we would use such data, to determine the FY 2016 update in the final rule.

For comparison, the 2008-based RPL market basket is projected to be 2.8 percent in FY 2016; this estimate is based on IGI's first quarter 2015 forecast (with historical data through the fourth quarter of 2014). Table 10 compares the proposed 2012-based IRF market basket and the 2008-based RPL market basket percent changes.

TABLE 10—PROPOSED 2012-BASED IRF MARKET BASKET AND 2008-BASED RPL MARKET BASKET PERCENT CHANGES, FY 2010 THROUGH FY 2018

| Fiscal year (FY) | Proposed 2012-based IRF market basket index percent change | 2008-based RPL market basket index percent change |
|---|---|---|
| Historical data: | | |
| FY 2010 | 2.1 | 2.2 |
| FY 2011 | 2.3 | 2.5 |
| FY 2012 | 1.8 | 2.2 |
| FY 2013 | 2.0 | 2.1 |
| FY 2014 | 1.8 | 1.8 |
| Average 2010–2014 | 2.0 | 2.2 |
| Forecast: | | |
| FY 2015 | 1.8 | 2.2 |
| FY 2016 | 2.7 | 2.8 |
| FY 2017 | 3.0 | 3.0 |
| FY 2018 | 3.1 | 3.1 |
| Average 2015–2018 | 2.7 | 2.8 |

Note that these market basket percent changes do not include any further adjustments as may be statutorily required.
Source: IHS Global Insight, Inc. 1st quarter 2015 forecast.

For FY 2016, the proposed 2012-based IRF market basket update (2.7 percent) is a tenth of a percentage point lower than the 2008-based RPL market basket (2.8 percent). The 0.1 percentage point difference stems from the lower Compensation cost weight in the proposed 2012-based IRF market basket (57.0 percent) compared to the 2008-based RPL market basket (62.3 percent) and the lower Pharmaceuticals cost weight in the proposed 2012-based IRF market basket (5.1 percent) compared to the 2008-based RPL market basket (6.5 percent). The downward pressure on the proposed 2012-based IRF market basket update from these two categories is partially offset by the higher All Other Services cost weight in the proposed 2012-based IRF market basket (17.2 percent) compared to the 2008-based RPL market basket (11.4 percent).

2. Proposed Productivity Adjustment

According to Section 1886(j)(3)(C)(i) of the Act, the Secretary shall establish an increase factor based on an appropriate percentage increase in a market basket of goods and services. As described in section V.C and V.D.1. of this proposed rule, we are proposing to estimate the IRF PPS increase factor for FY 2016 based on the proposed 2012-based IRF market basket. Section 1886(j)(3)(C)(ii) of the Act then requires that, after establishing the increase factor for a FY, the Secretary shall reduce such increase factor for FY 2012 and each subsequent FY, by the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act. Section 1886(b)(3)(B)(xi)(II) of the Act sets forth the definition of this productivity adjustment. The statute defines the productivity adjustment to be equal to the 10-year moving average of changes in annual economy-wide private nonfarm business MFP (as projected by the Secretary for the 10-year period ending with the applicable FY, year, cost reporting period, or other

annual period) (the ''MFP adjustment''). The BLS publishes the official measure of private nonfarm business MFP. Please see *http://www.bls.gov/mfp* for the BLS historical published MFP data.

MFP is derived by subtracting the contribution of labor and capital input growth from output growth. The projections of the components of MFP are currently produced by IGI, a nationally recognized economic forecasting firm with which CMS contracts to forecast the components of the market basket and MFP. As described in the FY 2012 IRF PPS final rule (76 FR 47836, 47858 through 47859), to generate a forecast of MFP, IGI replicated the MFP measure calculated by the BLS using a series of proxy variables derived from IGI's U.S. macroeconomic models. In the FY 2012 IRF PPS final rule, we identified each of the major MFP component series employed by the BLS to measure MFP as well as provided the corresponding concepts determined to be the best available proxies for the BLS series. Beginning with the FY 2016 rulemaking cycle, the MFP adjustment is calculated using a revised series developed by IGI to proxy the aggregate capital inputs. Specifically, IGI has replaced the Real Effective Capital Stock used for Full Employment GDP with a forecast of BLS aggregate capital inputs recently developed by IGI using a regression model. This series provides a better fit to the BLS capital inputs, as measured by the differences between the actual BLS capital input growth rates and the estimated model growth rates over the historical time period. Therefore, we are using IGI's most recent forecast of the BLS capital inputs series in the MFP calculations beginning with the FY 2016 rulemaking cycle. A complete description of the MFP projection methodology is available on CMS Web site at: *http://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/MedicareProgramRatesStats/MarketBasketResearch.html.* Although we discuss the IGI changes to the MFP proxy series in this proposed rule, in the future, when IGI makes changes to the MFP methodology, we will announce them on our Web site rather than in the annual rulemaking.

Using IGI's first quarter 2015 forecast, the MFP adjustment for FY 2016 (the 10-year moving average of MFP for the period ending FY 2016) is projected to be 0.6 percent. Thus, in accordance with section 1886(j)(3)(C) of the Act, we propose to base the FY 2016 market basket update, which is used to determine the applicable percentage increase for the IRF payments, on the most recent estimate of the proposed 2012-based IRF market basket (currently estimated to be 2.7 percent based on IGI's first quarter 2015 forecast). We propose to then reduce this percentage increase by the current estimate of the MFP adjustment for FY 2016 of 0.6 percentage point (the 10-year moving average of MFP for the period ending FY 2016 based on IGI's first quarter 2015 forecast). Following application of the MFP, we further reduce the applicable percentage increase by 0.2 percentage point, as required by sections 1886(j)(3)(C)(ii)(II) and 1886(j)(3)(D)(iv) of the Act. Therefore, the current estimate of the FY 2016 IRF update is 1.9 percent (2.7 percent market basket update, less 0.6 percentage point MFP adjustment, less 0.2 percentage point legislative adjustment). Furthermore, we note that if more recent data are subsequently available (for example, a more recent estimate of the market basket and MFP adjustment), we would use such data to determine the FY 2016 market basket update and MFP adjustment in the final rule.

For FY 2016, the Medicare Payment Advisory Commission (MedPAC) recommends that a 0 percent update be applied to IRF PPS payment rates. As discussed, and in accordance with sections 1886(j)(3)(C) and 1886(j)(3)(D) of the Act, the Secretary proposes to update IRF PPS payment rates for FY 2015 by an adjusted market basket increase factor of 1.9 percent, as section 1886(j)(3)(C) of the Act does not provide the Secretary with the authority to apply a different update factor to IRF PPS payment rates for FY 2016.

We invite public comment on these proposals.

*E. Proposed Labor-Related Share for FY 2016*

Section 1886(j)(6) of the Act specifies that the Secretary is to adjust the proportion (as estimated by the Secretary from time to time) of rehabilitation facilities' costs which are attributable to wages and wage-related costs, of the prospective payment rates computed under section 1886(j)(3) for area differences in wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the rehabilitation facility compared to the national average wage level for such facilities. The labor-related share is determined by identifying the national average proportion of total costs that are related to, influenced by, or vary with the local labor market. We continue to classify a cost category as labor-related if the costs are labor-intensive and vary with the local labor market. As stated in the FY 2015 IRF PPS final rule (79 FR 45886), the labor-related share for FY 2015 was defined as the sum of the FY 2015 relative importance of Wages and Salaries, Employee Benefits, Professional Fees: Labor- Related Services, Administrative and Business Support Services, All Other: Labor-related Services, and a portion of the Capital Costs from the 2008-based RPL market basket.

Based on our definition of the labor-related share and the cost categories in the proposed 2012-based IRF market basket, we are proposing to include in the labor-related share for FY 2016 the sum of the FY 2016 relative importance of Wages and Salaries, Employee Benefits, Professional Fees: Labor-Related, Administrative and Facilities Support Services, Installation, Maintenance, and Repair, All Other: Labor-related Services, and a portion of the Capital-Related cost weight from the proposed 2012-based IRF market basket. As noted in Section V.C.2.a of this proposed rule, for the proposed 2012-based IRF market basket, we have created a separate cost category for Installation, Maintenance, and Repair services. These expenses were previously included in the ''All Other'' Labor-related Services cost category in the 2008-based RPL market basket, along with other services, including, but not limited to, janitorial, waste management, security, and dry cleaning/laundry services. Because these services tend to be labor-intensive and are mostly performed at the facility (and, therefore, unlikely to be purchased in the national market), we continue to believe that they meet our definition of labor-related services.

Similar to the 2008-based RPL market basket, the proposed 2012-based IRF market basket includes two cost categories for nonmedical Professional fees (including, but not limited to, expenses for legal, accounting, and engineering services). These are Professional Fees: Labor-related and Professional Fees: Nonlabor-related. For the proposed 2012-based IRF market basket, we propose to estimate the labor-related percentage of non-medical professional fees (and assign these expenses to the Professional Fees: Labor-related services cost category) based on the same method that was used to determine the labor-related percentage of professional fees in the 2008-based RPL market basket.

To summarize, the professional services survey found that hospitals purchase the following proportion of these four services outside of their local labor market:

• 34 percent of accounting and auditing services.
• 30 percent of engineering services.
• 33 percent of legal services.
• 42 percent of management consulting services.

We applied each of these percentages to the respective Benchmark I–O cost category underlying the professional fees cost category to determine the Professional Fees: Nonlabor-related costs. The Professional Fees: Labor-related costs were determined to be the difference between the total costs for each Benchmark I–O category and the Professional Fees: Nonlabor-related costs. This is the same methodology that we used to separate the 2008-based RPL market basket professional fees category into Professional Fees: Labor-related and Professional Fees: Nonlabor-related cost categories. For more detail regarding this methodology, see the FY 2012 IRF final rule (76 FR 47861).

In addition to the professional services listed, we also classified expenses under NAICS 55, Management of Companies and Enterprises, into the Professional Fees cost category as was done in the 2008-based RPL market basket. The NAICS 55 data are mostly comprised of corporate, subsidiary, and regional managing offices, or otherwise referred to as home offices. Since many facilities are not located in the same geographic area as their home office, we analyzed data from a variety of sources to determine what proportion of these costs should be appropriately included in the labor-related share. For the 2012-based IRF market basket, we are proposing to derive the home office percentages using data for both freestanding IRF providers and hospital-based IRF providers. In the 2008-based RPL market basket, we used the home office percentages based on the data reported by freestanding IRFs, IPFs, and LTCHs.

Using data primarily from the Medicare cost reports and the Home Office Medicare Records (HOMER) database that provides the address (including city and state) for home offices, we were able to determine that 38 percent of the total number of freestanding and hospital-based IRFs that had home offices had those home offices located in their respective local labor markets—defined as being in the same Metropolitan Statistical Area (MSA).

The Medicare cost report requires hospitals to report their home office provider numbers. Using the HOMER database to determine the home office location for each home office provider number, we compared the location of the provider with the location of the hospital's home office. We then placed providers into one of the following two groups:

• Group 1—Provider and home office are located in different MSAs.
• Group 2—Provider and home office are located in the same MSA.

We found that 62 percent of the providers with home offices were classified into Group 1 (that is, different MSAs) and, thus, these providers were determined to not be located in the same local labor market as their home office. We found that 38 percent of all providers with home offices were classified into Group 2 (that is, the same MSA). Given these results, we are proposing to classify 38 percent of the Professional Fees costs into the Professional Fees: Labor-related cost category and the remaining 62 percent into the Professional Fees: Nonlabor-related Services cost category. This methodology for apportioning the Professional Fee expenses between Labor-related and Nonlabor-related categories was similar to the method used in the 2008-based RPL market basket. For more details regarding this methodology, see the FY 2012 IRF final rule (76 FR 47860 through 47863).

Using this proposed method and the IHS Global Insight, Inc. first quarter 2015 forecast for the proposed 2012-based IRF market basket, the proposed IRF labor-related share for FY 2016 is the sum of the FY 2016 relative importance of each labor-related cost category. The relative importance reflects the different rates of price change for these cost categories between the base year (FY 2012) and FY 2016. Table 11 compares the proposed FY 2016 labor-related share using the proposed 2012-based IRF market basket relative importance with the FY 2015 labor-related share using the 2008-based RPL market basket.

The sum of the relative importance for FY 2016 operating costs (Wages and Salaries, Employee Benefits, Professional Fees: Labor-related, Administrative and Facilities Support Services, Installation Maintenance & Repair Services, and All Other: Labor-related Services) is 65.7 percent, as shown in Table 11. We are proposing to specify the labor-related share to one decimal place, which is consistent with the IPPS labor-related share (79 FR 49990) (currently the labor-related share from the RPL market basket is specified to three decimal places).

We are proposing that the portion of Capital that is influenced by the local labor market is estimated to be 46 percent, which is the same percentage applied to the 2008-based RPL market basket. Since the relative importance for Capital-Related Costs is 8.4 percent of the proposed 2012-based IRF market basket in FY 2016, we are proposing to take 46 percent of 8.4 percent to determine the proposed labor-related share of Capital for 2016. The result would be 3.9 percent, which we propose to add to 65.7 percent for the operating cost amount to determine the total proposed labor-related share for FY 2016. Thus, the labor-related share that we propose to use for IRF PPS in FY 2016 would be 69.6 percent. This proposed labor-related share is determined using the same methodology as employed in calculating all previous IRF labor-related shares (see 76 FR 47862). By comparison, the FY 2015 labor-related share under the 2008-based RPL market basket was 69.294 percent. Therefore, the change from the RPL market basket to the IRF market basket has only a minimal impact on the labor-related share for IRF providers.

TABLE 11—PROPOSED IRF LABOR-RELATED SHARE

| | FY 2016 proposed labor-related share [1] | FY 2015 final labor-related share [2] |
|---|---|---|
| Wages and Salaries | 46.0 | 48.271 |
| Employee Benefits | 11.0 | 12.936 |
| Professional Fees: Labor-related | 3.8 | 2.058 |
| Administrative and Facilities Support Services | 0.9 | 0.415 |
| Installation, Maintenance, and Repair | 2.1 | ..... |
| All Other: Labor-related Services | 1.9 | 2.061 |

TABLE 11—PROPOSED IRF LABOR-RELATED SHARE—Continued

| | FY 2016 proposed labor-related share [1] | FY 2015 final labor-related share [2] |
|---|---|---|
| Subtotal | 65.7 | 65.741 |
| Labor-related portion of capital (46%) | 3.9 | 3.553 |
| Total Labor-Related Share | 69.6 | 69.294 |

[1] Based on the 2012-based IRF Market Basket, IHS Global Insight, Inc. 1st quarter 2015 forecast.
[2] **Federal Register** 79 FR 45886.

*F. Proposed Wage Adjustment*

1. Background

Section 1886(j)(6) of the Act requires the Secretary to adjust the proportion of rehabilitation facilities' costs attributable to wages and wage-related costs (as estimated by the Secretary from time to time) by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the rehabilitation facility compared to the national average wage level for those facilities. The Secretary is required to update the IRF PPS wage index on the basis of information available to the Secretary on the wages and wage-related costs to furnish rehabilitation services. Any adjustment or updates made under section 1886(j)(6) of the Act for a FY are made in a budget-neutral manner.

For FY 2016, we propose to maintain the policies and methodologies described in the FY 2012 IRF PPS final rule (76 FR 47836, 47863 through 47865) related to the labor market area definitions and the wage index methodology for areas with wage data. Thus, we propose to use the CBSA labor market area definitions and the FY 2015 pre-reclassification and pre-floor hospital wage index data. In accordance with section 1886(d)(3)(E) of the Act, the FY 2015 pre-reclassification and pre-floor hospital wage index is based on data submitted for hospital cost reporting periods beginning on or after October 1, 2010, and before October 1, 2011 (that is, FY 2011 cost report data).

The labor market designations made by the OMB include some geographic areas where there are no hospitals and, thus, no hospital wage index data on which to base the calculation of the IRF PPS wage index. We propose to continue to use the same methodology discussed in the FY 2008 IRF PPS final rule (72 FR 44299) to address those geographic areas where there are no hospitals and, thus, no hospital wage index data on which to base the calculation for the FY 2016 IRF PPS wage index.

2. Update

The wage index used for the IRF PPS is calculated using the pre-reclassification and pre-floor acute care hospital wage index data and is assigned to the IRF on the basis of the labor market area in which the IRF is geographically located. IRF labor market areas are delineated based on the Core-Based Statistical Areas (CBSAs) established by the Office of Management and Budget (OMB). The current CBSA labor market definitions used in FY 2015 are based on OMB standards published on December 27, 2000 (65 FR 82228). As stated in the FY 2015 IRF PPS proposed rule (79 FR 26308) and final rule (79 FR 45871), we intend to consider the inclusion of the 2010 Census-based CBSA changes in the IRF PPS wage index for FY 2016.

On February 28, 2013, OMB issued OMB Bulletin No. 13–01, which established revised delineations for Metropolitan Statistical Areas, Micropolitan Statistical Areas, and Combined Statistical Areas, and provided guidance on the use of the delineations of these statistical areas. A copy of this bulletin is available online at *http://www.whitehouse.gov/sites/default/files/omb/bulletins/2013/b-13-01.pdf.* The OMB bulletin provides the delineations of all Metropolitan Statistical Areas, Metropolitan Divisions, Micropolitan Statistical Areas, Combined Statistical Areas, and New England City and Town Areas in the United States and Puerto Rico based on the standards published on June 28, 2010, in the **Federal Register** (75 FR 37246 through 37252) and Census Bureau data.

While the revisions OMB published on February 28, 2013 are not as sweeping as the changes made when we adopted the CBSA geographic designations in the FY 2006 IRF PPS final rule, the February 28, 2013 OMB bulletin does contain a number of significant changes. For example, there are new CBSAs, urban counties that become rural, rural counties that become urban, and existing CBSAs that are being split apart. However, because the bulletin was not issued until February 28, 2013, with supporting data not available until later, and because the changes made by the bulletin and their ramifications needed to be extensively reviewed and verified, these changes were not incorporated into the hospital wage index until FY 2015. In the FY 2015 IRF PPS final rule (79 FR 45886), we stated that we intended to consider changes to the wage index based on the most current OMB delineations in this FY 2016 IRF PPS proposed rule. As discussed below, we are proposing to implement the new OMB delineations as described in the February 28, 2013 OMB Bulletin No. 13–01, for the IRF PPS wage index beginning in FY 2016.

3. Proposed Implementation of New Labor Market Delineations

As discussed in the FY 2015 IRF PPS proposed rule (79 FR 26308) and final rule (79 FR 45871), CMS delayed implementing the new OMB statistical area delineations to allow for sufficient time to assess the new changes. We believe it is important for the IRF PPS to use the latest OMB delineations available to maintain a more accurate and up-to-date payment system that reflects the reality of population shifts and labor market conditions. While CMS and other stakeholders have explored potential alternatives to the current CBSA-based labor market system (we refer readers to the CMS Web site at *www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/Wage-Index-Reform.html*), no consensus has been achieved regarding how best to implement a replacement system. As discussed in the FY 2005 IPPS final rule (69 FR 49027), while we recognize that MSAs are not designed specifically to define labor market areas, we believe they do represent a useful proxy for this purpose. We further believe that using the most current OMB delineations would increase the integrity of the IRF PPS wage index by creating a more

accurate representation of geographic variation in wage levels. We have reviewed our findings and impacts relating to the new OMB delineations, and have concluded that there is no compelling reason to further delay implementation. Because we believe that we have broad authority under section 1886(j)(6) of the Act to determine the labor market areas used for the IRF PPS wage index, and because we also believe that the most current OMB delineations accurately reflect the local economies and wage levels of the areas in which hospitals are currently located, we are proposing to implement the new OMB delineations as described in the February 28, 2013 OMB Bulletin No. 13–01, for the IRF PPS wage index effective beginning in FY 2016. As discussed below, we are proposing to implement a one-year transition with a blended wage index for all providers and a 3 year phase-out of the rural adjustment for a subset of providers in FY 2016 to assist providers in adapting to the new OMB delineations. We invite comments on this proposal. This proposed transition is discussed in more detail below.

a. Micropolitan Statistical Areas

OMB defines a ''Micropolitan Statistical Area'' as a CBSA associated with at least one urban cluster that has a population of at least 10,000, but less than 50,000 (75 FR 37252). We refer to these as Micropolitan Areas. After extensive impact analysis, consistent with the treatment of these areas under the IPPS as discussed in the FY 2005 IPPS final rule (69 FR 49029 through 49032), CMS determined the best course of action would be to treat Micropolitan Areas as ''rural'' and include them in the calculation of each state's IRF PPS rural wage index. Thus, the IRF PPS statewide rural wage index is determined using IPPS hospital data from hospitals located in non-MSA areas, and the statewide rural wage index is assigned to IRFs located in those areas. Because Micropolitan Areas tend to encompass smaller population centers and contain fewer hospitals than MSAs, we determined that if Micropolitan Areas were to be treated as separate labor market areas, the IRF PPS wage index would have included significantly more single-provider labor market areas. As we explained in the FY 2006 IRF PPS final rule (70 FR 47920 through 47921), recognizing Micropolitan Areas as independent labor markets would generally increase the potential for dramatic shifts in year-to-year wage index values because a single hospital (or group of hospitals) could have a disproportionate effect on the wage index of an area. Dramatic shifts in an area's wage index from year to year are problematic and create instability in the payment levels from year to year, which could make fiscal planning for IRFs difficult if we adopted this approach. For these reasons, we adopted a policy to include Micropolitan Areas in the state's rural wage area for purposes of the IRF PPS wage index, and have continued this policy through the present.

Based upon the new 2010 Decennial Census data, a number of urban counties have switched status and have joined or became Micropolitan Areas, and some counties that once were part of a Micropolitan Area, have become urban. Overall, there are fewer Micropolitan Areas (541) under the new OMB delineations based on the 2010 Census than existed under the latest data from the 2000 Census (581). We believe that the best course of action would be to continue the policy established in the FY 2006 IRF PPS final rule (70 FR 47880) and include Micropolitan Areas in each state's rural wage index. These areas continue to be defined as having relatively small urban cores (populations of 10,000 to 49,999). We do not believe it would be appropriate to calculate a separate wage index for areas that typically may include only a few hospitals for the reasons discussed in the FY 2006 IRF PPS final rule (70 FR 47880), and as previously discussed. Therefore, in conjunction with our proposal to implement the new OMB labor market delineations beginning in FY 2016 and consistent with the treatment of Micropolitan Areas under the IPPS, we are proposing to continue to treat Micropolitan Areas as ''rural'' and to include Micropolitan Areas in the calculation of the state's rural wage index.

b. Urban Counties Becoming Rural

As previously discussed, we are proposing to implement the new OMB statistical area delineations (based upon the 2010 decennial Census data) beginning in FY 2016 for the IRF PPS wage index. Our analysis shows that a total of 37 counties (and county equivalents) that are currently considered part of an urban CBSA would be considered located in a rural area, for IRF PPS payment beginning in FY 2016, if we adopt the new OMB delineations. Table 12 lists the 37 urban counties that would be rural if we finalize our proposal to implement the new OMB delineations.

TABLE 12—COUNTIES THAT WOULD TRANSITION FROM URBAN TO RURAL STATUS

| County | State | Previous CBSA | Previous urban area (constituent counties) |
|---|---|---|---|
| Greene County | IN | 14020 | Bloomington, IN. |
| Anson County | NC | 16740 | Charlotte-Gastonia-Rock Hill, NC-SC. |
| Franklin County | IN | 17140 | Cincinnati-Middletown, OH-KY-IN. |
| Stewart County | TN | 17300 | Clarksville, TN-KY. |
| Howard County | MO | 17860 | Columbia, MO. |
| Delta County | TX | 19124 | Dallas-Fort Worth-Arlington, TX. |
| Pittsylvania County | VA | 19260 | Danville, VA. |
| Danville City | VA | 19260 | Danville, VA. |
| Preble County | OH | 19380 | Dayton, OH. |
| Gibson County | IN | 21780 | Evansville, IN-KY. |
| Webster County | KY | 21780 | Evansville, IN-KY. |
| Franklin County | AR | 22900 | Fort Smith, AR-OK. |
| Ionia County | MI | 24340 | Grand Rapids-Wyoming, MI. |
| Newaygo County | MI | 24340 | Grand Rapids-Wyoming, MI. |
| Greene County | NC | 24780 | Greenville, NC. |
| Stone County | MS | 25060 | Gulfport-Biloxi, MS. |
| Morgan County | WV | 25180 | Hagerstown-Martinsburg, MD-WV. |
| San Jacinto County | TX | 26420 | Houston-Sugar Land-Baytown, TX. |
| Franklin County | KS | 28140 | Kansas City, MO-KS. |
| Tipton County | IN | 29020 | Kokomo, IN. |

TABLE 12—COUNTIES THAT WOULD TRANSITION FROM URBAN TO RURAL STATUS—Continued

| County | State | Previous CBSA | Previous urban area (constituent counties) |
|---|---|---|---|
| Nelson County | KY | 31140 | Louisville/Jefferson County, KY-IN. |
| Geary County | KS | 31740 | Manhattan, KS. |
| Washington County | OH | 37620 | Parkersburg-Marietta-Vienna, WV-OH. |
| Pleasants County | WV | 37620 | Parkersburg-Marietta-Vienna, WV-OH. |
| George County | MS | 37700 | Pascagoula, MS. |
| Power County | ID | 38540 | Pocatello, ID. |
| Cumberland County | VA | 40060 | Richmond, VA. |
| King and Queen County | VA | 40060 | Richmond, VA. |
| Louisa County | VA | 40060 | Richmond, VA. |
| Washington County | MO | 41180 | St. Louis, MO-IL. |
| Summit County | UT | 41620 | Salt Lake City, UT. |
| Erie County | OH | 41780 | Sandusky, OH. |
| Franklin County | MA | 44140 | Springfield, MA. |
| Ottawa County | OH | 45780 | Toledo, OH. |
| Greene County | AL | 46220 | Tuscaloosa, AL. |
| Calhoun County | TX | 47020 | Victoria, TX. |
| Surry County | VA | 47260 | Virginia Beach-Norfolk-Newport News, VA-NC. |

We are proposing that the wage data for all hospitals located in the counties listed in Table 12 now be considered rural when their respective state's rural wage index value is calculated. This rural wage index value would be used under the IRF PPS.

c. Rural Counties Becoming Urban

Analysis of the new OMB delineations (based upon the 2010 decennial Census data) shows that a total of 105 counties (and county equivalents) that are currently located in rural areas would be located in urban areas, if we finalize our proposal to implement the new OMB delineations. Table 13 below lists the 105 rural counties that would be urban if we finalize this proposal.

TABLE 13—COUNTIES THAT WOULD TRANSITION FROM RURAL TO URBAN STATUS

| County | State | New CBSA | Urban area (constituent counties) |
|---|---|---|---|
| Utuado Municipio | PR | 10380 | Aguadilla-Isabela, PR. |
| Linn County | OR | 10540 | Albany, OR. |
| Oldham County | TX | 11100 | Amarillo, TX. |
| Morgan County | GA | 12060 | Atlanta-Sandy Springs-Roswell, GA. |
| Lincoln County | GA | 12260 | Augusta-Richmond County, GA-SC. |
| Newton County | TX | 13140 | Beaumont-Port Arthur, TX. |
| Fayette County | WV | 13220 | Beckley, WV. |
| Raleigh County | WV | 13220 | Beckley, WV. |
| Golden Valley County | MT | 13740 | Billings, MT. |
| Oliver County | ND | 13900 | Bismarck, ND. |
| Sioux County | ND | 13900 | Bismarck, ND. |
| Floyd County | VI | 13980 | Blacksburg-Christiansburg-Radford, VA. |
| De Witt County | IL | 14010 | Bloomington, IL. |
| Columbia County | PA | 14100 | Bloomsburg-Berwick, PA. |
| Montour County | PA | 14100 | Bloomsburg-Berwick, PA. |
| Allen County | KY | 14540 | Bowling Green, KY. |
| Butler County | KY | 14540 | Bowling Green, KY. |
| St. Mary's County | MD | 15680 | California-Lexington Park, MD. |
| Jackson County | IL | 16060 | Carbondale-Marion, IL. |
| Williamson County | IL | 16060 | Carbondale-Marion, IL. |
| Franklin County | PA | 16540 | Chambersburg-Waynesboro, PA. |
| Iredell County | NC | 16740 | Charlotte-Concord-Gastonia, NC-SC. |
| Lincoln County | NC | 16740 | Charlotte-Concord-Gastonia, NC-SC. |
| Rowan County | NC | 16740 | Charlotte-Concord-Gastonia, NC-SC. |
| Chester County | SC | 16740 | Charlotte-Concord-Gastonia, NC-SC. |
| Lancaster County | SC | 16740 | Charlotte-Concord-Gastonia, NC-SC. |
| Buckingham County | VA | 16820 | Charlottesville, VA. |
| Union County | IN | 17140 | Cincinnati, OH-KY-IN. |
| Hocking County | OH | 18140 | Columbus, OH. |
| Perry County | OH | 18140 | Columbus, OH. |
| Walton County | FL | 18880 | Crestview-Fort Walton Beach-Destin, FL. |
| Hood County | TX | 23104 | Dallas-Fort Worth-Arlington, TX. |
| Somervell County | TX | 23104 | Dallas-Fort Worth-Arlington, TX. |
| Baldwin County | AL | 19300 | Daphne-Fairhope-Foley, AL. |
| Monroe County | PA | 20700 | East Stroudsburg, PA. |
| Hudspeth County | TX | 21340 | El Paso, TX. |
| Adams County | PA | 23900 | Gettysburg, PA. |
| Hall County | NE | 24260 | Grand Island, NE. |

TABLE 13—COUNTIES THAT WOULD TRANSITION FROM RURAL TO URBAN STATUS—Continued

| County | State | New CBSA | Urban area (constituent counties) |
|---|---|---|---|
| Hamilton County | NE | 24260 | Grand Island, NE. |
| Howard County | NE | 24260 | Grand Island, NE. |
| Merrick County | NE | 24260 | Grand Island, NE. |
| Montcalm County | MI | 24340 | Grand Rapids-Wyoming, MI. |
| Josephine County | OR | 24420 | Grants Pass, OR. |
| Tangipahoa Parish | LA | 25220 | Hammond, LA. |
| Beaufort County | SC | 25940 | Hilton Head Island-Bluffton-Beaufort, SC. |
| Jasper County | SC | 25940 | Hilton Head Island-Bluffton-Beaufort, SC. |
| Citrus County | FL | 26140 | Homosassa Springs, FL. |
| Butte County | ID | 26820 | Idaho Falls, ID. |
| Yazoo County | MS | 27140 | Jackson, MS. |
| Crockett County | TN | 27180 | Jackson, TN. |
| Kalawao County | HI | 27980 | Kahului-Wailuku-Lahaina, HI. |
| Maui County | HI | 27980 | Kahului-Wailuku-Lahaina, HI. |
| Campbell County | TN | 28940 | Knoxville, TN. |
| Morgan County | TN | 28940 | Knoxville, TN. |
| Roane County | TN | 28940 | Knoxville, TN. |
| Acadia Parish | LA | 29180 | Lafayette, LA. |
| Iberia Parish | LA | 29180 | Lafayette, LA. |
| Vermilion Parish | LA | 29180 | Lafayette, LA. |
| Cotton County | OK | 30020 | Lawton, OK. |
| Scott County | IN | 31140 | Louisville/Jefferson County, KY-IN. |
| Lynn County | TX | 31180 | Lubbock, TX. |
| Green County | WI | 31540 | Madison, WI. |
| Benton County | MS | 32820 | Memphis, TN-MS-AR. |
| Midland County | MI | 33220 | Midland, MI. |
| Martin County | TX | 33260 | Midland, TX. |
| Le Sueur County | MN | 33460 | Minneapolis-St. Paul-Bloomington, MN-WI. |
| Mille Lacs County | MN | 33460 | Minneapolis-St. Paul-Bloomington, MN-WI. |
| Sibley County | MN | 33460 | Minneapolis-St. Paul-Bloomington, MN-WI. |
| Maury County | TN | 34980 | Nashville-Davidson-Murfreesboro-Franklin, TN. |
| Craven County | NC | 35100 | New Bern, NC. |
| Jones County | NC | 35100 | New Bern, NC. |
| Pamlico County | NC | 35100 | New Bern, NC. |
| St. James Parish | LA | 35380 | New Orleans-Metairie, LA. |
| Box Elder County | UT | 36260 | Ogden-Clearfield, UT. |
| Gulf County | FL | 37460 | Panama City, FL. |
| Custer County | SD | 39660 | Rapid City, SD. |
| Fillmore County | MN | 40340 | Rochester, MN. |
| Yates County | NY | 40380 | Rochester, NY. |
| Sussex County | DE | 41540 | Salisbury, MD-DE. |
| Worcester County | MA | 41540 | Salisbury, MD-DE. |
| Highlands County | FL | 42700 | Sebring, FL. |
| Webster Parish | LA | 43340 | Shreveport-Bossier City, LA. |
| Cochise County | AZ | 43420 | Sierra Vista-Douglas, AZ. |
| Plymouth County | IA | 43580 | Sioux City, IA-NE-SD. |
| Union County | SC | 43900 | Spartanburg, SC. |
| Pend Oreille County | WA | 44060 | Spokane-Spokane Valley, WA. |
| Stevens County | WA | 44060 | Spokane-Spokane Valley, WA. |
| Augusta County | VA | 44420 | Staunton-Waynesboro, VA. |
| Staunton City | VA | 44420 | Staunton-Waynesboro, VA. |
| Waynesboro City | VA | 44420 | Staunton-Waynesboro, VA. |
| Little River County | AR | 45500 | Texarkana, TX-AR. |
| Sumter County | FL | 45540 | The Villages, FL. |
| Pickens County | AL | 46220 | Tuscaloosa, AL. |
| Gates County | NC | 47260 | Virginia Beach-Norfolk-Newport News, VA-NC. |
| Falls County | TX | 47380 | Waco, TX. |
| Columbia County | WA | 47460 | Walla Walla, WA. |
| Walla Walla County | WA | 47460 | Walla Walla, WA. |
| Peach County | GA | 47580 | Warner Robins, GA. |
| Pulaski County | GA | 47580 | Warner Robins, GA. |
| Culpeper County | VA | 47894 | Washington-Arlington-Alexandria, DC-VA-MD-WV. |
| Rappahannock County | VA | 47894 | Washington-Arlington-Alexandria, DC-VA-MD-WV. |
| Jefferson County | NY | 48060 | Watertown-Fort Drum, NY. |
| Kingman County | KS | 48620 | Wichita, KS. |
| Davidson County | NC | 49180 | Winston-Salem, NC. |
| Windham County | CT | 49340 | Worcester, MA-CT. |

We are proposing that when calculating the area wage index, the wage data for hospitals located in these counties would be included in their new respective urban CBSAs.

d. Urban Counties Moving to a Different Urban CBSA

In addition to rural counties becoming urban and urban counties becoming rural, several urban counties would shift from one urban CBSA to another urban CBSA under our proposal to adopt the new OMB delineations. In other cases, applying the new OMB delineations would involve a change only in CBSA name or number, while the CBSA continues to encompass the same constituent counties. For example, CBSA 29140 (Lafayette, IN), would experience both a change to its number and its name, and would become CBSA 29200 (Lafayette-West Lafayette, IN), while all of its three constituent counties would remain the same. We are not discussing these proposed changes in this section because they are inconsequential changes to the IRF PPS wage index. However, in other cases, if we adopt the new OMB delineations, counties would shift between existing and new CBSAs, changing the constituent makeup of the CBSAs.

In one type of change, an entire CBSA would be subsumed by another CBSA. For example, CBSA 37380 (Palm Coast, FL) currently is a single county (Flagler, FL) CBSA. Flagler County would be a part of CBSA 19660 (Deltona-Daytona Beach-Ormond Beach, FL) under the new OMB delineations.

In another type of change, some CBSAs have counties that would split off to become part of, or to form, entirely new labor market areas. For example, CBSA 37964 (Philadelphia Metropolitan Division of MSA 37980) currently is comprised of five Pennsylvania counties (Bucks, Chester, Delaware, Montgomery, and Philadelphia). Under the new OMB delineations, Montgomery, Bucks, and Chester counties would split off and form the new CBSA 33874 (Montgomery County-Bucks County-Chester County, PA Metropolitan Division of MSA 37980), while Delaware and Philadelphia counties would remain in CBSA 37964.

Finally, in some cases, a CBSA would lose counties to another existing CBSA if we adopt the new OMB delineations. For example, Lincoln County and Putnam County, WV, would move from CBSA 16620 (Charleston, WV) to CBSA 26580 (Huntington-Ashland, WV–KY–OH). CBSA 16620 would still exist in the new labor market delineations with fewer constituent counties. Table 14 lists the urban counties that would move from one urban CBSA to another urban CBSA under the new OMB delineations.

TABLE 14—COUNTIES THAT WOULD CHANGE TO A DIFFERENT CBSA

| Prior CBSA | New CBSA | County | State |
|---|---|---|---|
| 11300 | 26900 | Madison County | IN |
| 11340 | 24860 | Anderson County | SC |
| 14060 | 14010 | McLean County | IL |
| 37764 | 15764 | Essex County | MA |
| 16620 | 26580 | Lincoln County | WV |
| 16620 | 26580 | Putnam County | WV |
| 16974 | 20994 | DeKalb County | IL |
| 16974 | 20994 | Kane County | IL |
| 21940 | 41980 | Ceiba Municipio | PR |
| 21940 | 41980 | Fajardo Municipio | PR |
| 21940 | 41980 | Luquillo Municipio | PR |
| 26100 | 24340 | Ottawa County | MI |
| 31140 | 21060 | Meade County | KY |
| 34100 | 28940 | Grainger County | TN |
| 35644 | 35614 | Bergen County | NJ |
| 35644 | 35614 | Hudson County | NJ |
| 20764 | 35614 | Middlesex County | NJ |
| 20764 | 35614 | Monmouth County | NJ |
| 20764 | 35614 | Ocean County | NJ |
| 35644 | 35614 | Passaic County | NJ |
| 20764 | 35084 | Somerset County | NJ |
| 35644 | 35614 | Bronx County | NY |
| 35644 | 35614 | Kings County | NY |
| 35644 | 35614 | New York County | NY |
| 35644 | 20524 | Putnam County | NY |
| 35644 | 35614 | Queens County | NY |
| 35644 | 35614 | Richmond County | NY |
| 35644 | 35614 | Rockland County | NY |
| 35644 | 35614 | Westchester County | NY |
| 37380 | 19660 | Flagler County | FL |
| 37700 | 25060 | Jackson County | MS |
| 37964 | 33874 | Bucks County | PA |
| 37964 | 33874 | Chester County | PA |
| 37964 | 33874 | Montgomery County | PA |
| 39100 | 20524 | Dutchess County | NY |
| 39100 | 35614 | Orange County | NY |
| 41884 | 42034 | Marin County | CA |
| 41980 | 11640 | Arecibo Municipio | PR |
| 41980 | 11640 | Camuy Municipio | PR |
| 41980 | 11640 | Hatillo Municipio | PR |
| 41980 | 11640 | Quebradillas Municipio | PR |
| 48900 | 34820 | Brunswick County | NC |
| 49500 | 38660 | Guánica Municipio | PR |
| 49500 | 38660 | Guayanilla Municipio | PR |
| 49500 | 38660 | Peñuelas Municipio | PR |
| 49500 | 38660 | Yauco Municipio | PR |

If providers located in these counties move from one CBSA to another under the new OMB delineations, there may be impacts, both negative and positive, upon their specific wage index values. As discussed below, we propose to implement a transition wage index to adjust for these possible impacts.

4. Transition Period

Overall, we believe implementing the new OMB delineations would result in wage index values being more representative of the actual costs of labor in a given area. Further, we recognize that some providers (10 percent) would have a higher wage index due to our proposed implementation of the new labor market area delineations. However, we also recognize that more providers (16 percent) would experience decreases in wage index values as a result of our proposed implementation of the new labor market area delineations. In prior years, we have provided for transition periods when adopting changes that have significant payment implications, particularly large negative impacts. As discussed in the FY 2006 IRF PPS final rule (70 FR 47921 through 47926), we evaluated several options to ease the transition to the new CBSA system.

In implementing the new CBSA delineations for FY 2016, we continue to have similar concerns as those expressed in the FY 2006 IRF PPS final rule. While we believe that implementing the latest OMB labor market area delineations would create a more accurate wage index system, we recognize that IRFs may experience decreases in their wage index as a result of the labor market area changes. Our analysis for the FY 2016 IRF PPS proposed rule indicates that a majority of IRFs either expect no change in the wage index or an increase in the wage index based on the new CBSA delineations. However, we found that 188 facilities will experience a decline in their wage index with 29 facilities experiencing a decline of 5 percent or more based on the CBSA changes. Therefore, we believe it would be appropriate to consider, as we did in FY 2006, whether or not a transition period should be used to implement these proposed changes to the wage index.

We considered having no transition period and fully implementing the proposed new OMB delineations beginning in FY 2016. This would mean that we would adopt the revised OMB delineations for all IRF providers on October 1, 2015. However, this would not provide any time for IRF providers to adapt to the new OMB delineations. As previously discussed, more IRFs would experience a decrease in wage index due to implementation of the proposed new OMB delineations than would experience an increase. Thus, we believe that it would be appropriate to provide for a transition period to mitigate the resulting short-term instability and negative impacts on these IRF providers, and to provide time for these IRFs to adjust to their new labor market area delineations.

Furthermore, in light of the comments received during the FY 2006 rulemaking cycle on our proposal in the FY 2006 IRF PPS proposed rule (70 FR 30238 through 30240) to adopt the new CBSA definitions without a transition period, we continue to believe that a transition period is appropriate. Therefore, we propose a similar transition methodology to that used in FY 2006. Specifically, for the FY 2016 IRF PPS, we are proposing to implement a budget-neutral one-year transition policy. We are proposing that all IRF providers would receive a one-year blended wage index using 50 percent of their FY 2016 wage index based on the proposed new OMB delineations and 50 percent of their FY 2016 wage index based on the OMB delineations used in FY 2015. We are proposing to apply this one-year blended wage index in FY 2016 for all geographic areas to assist providers in adapting to these proposed changes. We believe a one-year, 50/50 blend would mitigate the short-term instability and negative payment impacts due to the proposed implementation of the new OMB delineations. This transition policy would be for a one-year period, going into effect October 1, 2016, and continuing through September 30, 2017.

For FY 2006 it was determined that the transition to the current wage index system would have significant negative impacts upon IRFs that were originally considered rural, but would be considered urban under the new definitions. To alleviate the potentially decreased payments associated with switching from rural status to urban status in calculating the IRF area wage index for FY 2006, we implemented a 3-year budget-neutral phase-out of the rural adjustment for FY 2005 rural IRFs that became urban IRFs in FY 2006 and that experienced a loss in payment because of this redesignation. The 3-year transition period was afforded to these facilities because, as a group, they experienced a significant reduction in payments due to the labor market revisions and the loss of the rural adjustment. This adjustment was in addition to a one-year blended wage index (comprised of a 50/50 blend of the FY 2006 MSA-based wage index and the FY 2006 CBSA-based wage index) for all IRFs.

Our analysis for the FY 2016 proposed rule indicates that 22 IRFs will experience a change in either rural or urban designations. Of these, 19 facilities designated as rural in FY 2015 would be designated as urban in FY 2016. While 16 of these rural IRFs that would be designated as urban under the new CBSA delineations will experience an increase in their wage index, these IRFs will lose the 14.9 percent rural adjustment. In many cases, this loss exceeds the urban CBSA based increase in the wage index. Consistent with the transition policy adopted in FY 2006 (70 FR 47923 through 47927), we considered the appropriateness of applying a 3-year phase-out of the rural adjustment for IRFs located in rural counties that would become urban under the new OMB delineations, given the potentially significant payment impacts for these facilities. We continue to believe, as discussed in the FY 2006 IRF final rule (70 FR 47880), that the phase-out of the rural adjustment transition period for these facilities specifically is appropriate because, as a group, we expect these IRFs would experience a steeper and more abrupt reduction in their payments compared to other IRFs.

Therefore, in addition to the 1-year transition policy noted, we are proposing a budget-neutral three-year phase-out of the rural adjustment for existing FY 2015 rural IRFs that will become urban in FY 2016 and that experience a loss in payments due to changes from the new CBSA delineations. Accordingly, the incremental steps needed to reduce the impact of the loss of the FY 2015 rural adjustment of 14.9 percent will be phased out over FYs 2016, 2017 and 2018. This policy will allow rural IRFs which would be classified as urban in FY 2016 to receive two-thirds of the 2015 rural adjustment for FY 2016, as well as the blended wage index. For FY 2017, these IRFs will receive the full FY 2017 wage index and one-third of the FY 2015 rural adjustment. For FY 2018, these IRFs will receive the full FY 2018 wage index without a rural adjustment. We believe a three-year budget-neutral phase-out of the rural adjustment for IRFs that transition from rural to urban status under the new CBSA delineations would best accomplish the goals of mitigating the loss of the rural adjustment for existing FY 2015 rural IRFs. The purpose of the gradual phase-out of the rural adjustment for these facilities is to alleviate the significant payment implications for existing rural IRFs that may need time to adjust to the

loss of their FY 2015 rural payment adjustment or that experience a reduction in payments solely because of this redesignation. As stated, this policy is specifically for rural IRFs that become urban in FY 2016 and that experience a loss in payments due to changes from the new CBSA delineations. Thus we are not implementing a transition policy for urban facilities that become rural in FY 2016 because these IRFs will receive the full rural adjustment of 14.9 percent beginning October 1, 2015.

For the reasons discussed and based on similar concerns to those we expressed during the FY 2006 rulemaking cycle to the proposed adoption of the new CBSA definitions, we are proposing to implement a three-year budget-neutral phase-out of the rural adjustment for the group of IRFs that during FY 2015 were designated as rural and for FY 2016 are designated as urban under the new CBSA system. This is in addition to implementing a one-year blended wage index for all IRFs. We considered having no transition, but found that a multi-year transition policy would best provide a sufficient buffer for rural IRFs that may experience a reduction in payments due to being designated as urban. We believe that the incremental reduction of the FY 2015 rural adjustment is appropriate to mitigate a significant reduction in per case-payment. Alternative timeframes we considered for phasing out the rural adjustment for IRFs which would transition from rural to urban status in FY 2016, but we believe that a three-year budget-neutral phase-out of the rural adjustment would appropriately mitigate the adverse payment impacts for these IRFs while also ensuring that payment rates for these facilities are set accurately and appropriately. We invite public comment on the proposed policies to adopt the new OMB delineations.

The proposed wage index applicable to FY 2016 is set forth in Table A available on the CMS Web site at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientRehabFacPPS/Data-Files.html*. Table A provides a crosswalk between the FY 2015 wage index for a provider using the current OMB delineations in effect in FY 2015 and the FY 2016 wage index using the proposed revised OMB delineations, as well as the proposed transition wage index values for FY 2016.

To calculate the wage-adjusted facility payment for the payment rates set forth in this proposed rule, we multiply the unadjusted federal payment rate for IRFs by the FY 2016 labor-related share based on the proposed 2012-based IRF market basket (69.6 percent) to determine the labor-related portion of the standard payment amount. We then multiply the labor-related portion by the applicable IRF wage index from the tables in the addendum to this proposed rule. This table is available through the Internet on the CMS Web site at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientRehabFacPPS/Data-Files.html*.

Adjustments or updates to the IRF wage index made under section 1886(j)(6) of the Act must be made in a budget-neutral manner. We calculate a budget-neutral wage adjustment factor as established in the FY 2004 IRF PPS final rule (68 FR 45689), codified at § 412.624(e)(1), as described in the steps below. We use the listed steps to ensure that the FY 2016 IRF standard payment conversion factor reflects the update to the wage indexes (based on the FY 2011 hospital cost report data) and the labor-related share in a budget-neutral manner:

*Step 1.* Determine the total amount of the estimated FY 2015 IRF PPS rates, using the FY 2015 standard payment conversion factor and the labor-related share and the wage indexes from FY 2015 (as published in the FY 2015 IRF PPS final rule (79 FR 45871)).

*Step 2.* Calculate the total amount of estimated IRF PPS payments using the FY 2016 standard payment conversion factor and the FY 2016 proposed labor-related share and CBSA urban and rural wage indexes.

*Step 3.* Divide the amount calculated in step 1 by the amount calculated in step 2. The resulting quotient is the FY 2016 budget-neutral wage adjustment factor of 1.0027.

*Step 4.* Apply the FY 2016 budget-neutral wage adjustment factor from step 3 to the FY 2015 IRF PPS standard payment conversion factor after the application of the adjusted proposed market basket update to determine the FY 2016 standard payment conversion factor.

We discuss the calculation of the standard payment conversion factor for FY 2016 in section V.G of this proposed rule.

We invite public comment on the proposed IRF wage adjustment for FY 2016.

### *G. Description of the Proposed IRF Standard Payment Conversion Factor and Payment Rates for FY 2016*

To calculate the proposed standard payment conversion factor for FY 2016, as illustrated in Table 15, we begin by applying the proposed adjusted market basket increase factor for FY 2016 that was adjusted in accordance with sections 1886(j)(3)(C) and (D) of the Act, to the standard payment conversion factor for FY 2015 ($15,198). Applying the proposed 1.9 percent adjusted market basket increase for FY 2016 to the standard payment conversion factor for FY 2015 of $15,198 yields a standard payment amount of $15,487. Then, we apply the proposed budget neutrality factor for the FY 2016 wage index and labor-related share of 1.0027, which results in a proposed standard payment amount of $15,529. We next apply the proposed budget neutrality factors for the revised CMG relative weights of 1.0000, which results in the proposed standard payment conversion factor of $15,529 for FY 2016.

TABLE 15—CALCULATIONS TO DETERMINE THE PROPOSED FY 2016 STANDARD PAYMENT CONVERSION FACTOR

| Explanation for adjustment | | Calculations |
|---|---|---|
| Standard Payment Conversion Factor for FY 2015 | | $15,198 |
| Market Basket Increase Factor for FY 2016 (2.7 percent), reduced by 0.6 percentage point for the productivity adjustment as required by section 1886(j)(3)(C)(ii)(I) of the Act, and reduced by 0.2 percentage point in accordance with paragraphs 1886(j)(3)(C) and (D) of the Act | × | 1.019 |
| Budget Neutrality Factor for the Wage Index and Labor-Related Share | × | 1.0027 |
| Budget Neutrality Factor for the Revisions to the CMG Relative Weights | × | 1.0000 |
| Proposed FY 2016 Standard Payment Conversion Factor | = | 15,529 |

We invite public comment on the proposed FY 2016 standard payment conversion factor.

After the application of the proposed CMG relative weights described in section III of this proposed rule, to the proposed FY 2016 standard payment conversion factor ($15,529), the resulting proposed unadjusted IRF

prospective payment rates for FY 2016 are shown in Table 16.

TABLE 16—PROPOSED FY 2016 PAYMENT RATES

| CMG | Payment rate tier 1 | Payment rate tier 2 | Payment rate tier 3 | Payment rate no comorbidity |
|---|---|---|---|---|
| 0101 | $12,538.11 | $10,982.11 | $10,225.85 | $9,783.27 |
| 0102 | 15,859.77 | 13,892.24 | 12,934.10 | 12,373.51 |
| 0103 | 17,712.38 | 15,515.02 | 14,445.08 | 13,819.26 |
| 0104 | 19,228.01 | 16,842.75 | 15,681.18 | 15,002.57 |
| 0105 | 22,548.11 | 19,749.78 | 18,387.89 | 17,592.80 |
| 0106 | 25,141.45 | 22,021.67 | 20,504.49 | 19,616.23 |
| 0107 | 28,129.23 | 24,639.86 | 22,940.99 | 21,947.14 |
| 0108 | 35,693.41 | 31,264.54 | 29,109.11 | 27,848.16 |
| 0109 | 32,590.71 | 28,546.96 | 26,577.88 | 25,427.18 |
| 0110 | 42,816.56 | 37,504.09 | 34,918.51 | 33,405.98 |
| 0201 | 12,682.53 | 10,421.51 | 9,404.36 | 8,884.14 |
| 0202 | 16,426.58 | 13,497.81 | 12,180.95 | 11,506.99 |
| 0203 | 18,721.76 | 15,383.03 | 13,881.37 | 13,114.24 |
| 0204 | 20,616.30 | 16,940.59 | 15,286.75 | 14,441.97 |
| 0205 | 24,622.78 | 20,231.18 | 18,257.45 | 17,248.06 |
| 0206 | 29,498.89 | 24,239.22 | 21,874.15 | 20,662.89 |
| 0207 | 39,209.17 | 32,216.46 | 29,073.39 | 27,466.14 |
| 0301 | 17,299.31 | 14,440.42 | 13,243.13 | 12,357.98 |
| 0302 | 21,616.37 | 18,044.70 | 16,547.70 | 15,440.48 |
| 0303 | 25,121.26 | 20,970.36 | 19,231.11 | 17,945.31 |
| 0304 | 33,356.29 | 27,843.50 | 25,534.33 | 23,827.70 |
| 0401 | 15,469.99 | 13,167.04 | 12,056.72 | 11,145.16 |
| 0402 | 22,214.23 | 18,906.56 | 17,313.28 | 16,004.19 |
| 0403 | 35,511.72 | 30,224.09 | 27,677.34 | 25,584.03 |
| 0404 | 59,966.79 | 51,036.06 | 46,736.08 | 43,201.68 |
| 0405 | 53,172.85 | 45,254.61 | 41,442.24 | 38,306.94 |
| 0501 | 13,465.20 | 10,730.54 | 9,963.41 | 9,146.58 |
| 0502 | 17,729.46 | 14,128.28 | 13,118.90 | 12,041.19 |
| 0503 | 22,406.79 | 17,856.80 | 16,578.76 | 15,218.42 |
| 0504 | 25,785.90 | 20,547.97 | 19,078.93 | 17,513.61 |
| 0505 | 30,179.06 | 24,049.76 | 22,329.15 | 20,498.28 |
| 0506 | 42,192.29 | 33,623.39 | 31,219.50 | 28,657.22 |
| 0601 | 16,131.53 | 12,729.12 | 11,878.13 | 10,732.09 |
| 0602 | 20,721.90 | 16,350.48 | 15,257.24 | 13,786.65 |
| 0603 | 25,731.55 | 20,302.61 | 18,946.93 | 17,119.17 |
| 0604 | 33,808.19 | 26,675.72 | 24,894.54 | 22,493.76 |
| 0701 | 15,005.67 | 12,564.51 | 11,899.87 | 10,809.74 |
| 0702 | 19,476.47 | 16,308.56 | 15,446.70 | 14,030.45 |
| 0703 | 23,318.35 | 19,526.16 | 18,493.49 | 16,797.72 |
| 0704 | 30,337.45 | 25,403.89 | 24,060.63 | 21,853.96 |
| 0801 | 12,458.92 | 9,812.78 | 8,902.78 | 8,222.61 |
| 0802 | 16,428.13 | 12,938.76 | 11,739.92 | 10,840.79 |
| 0803 | 22,135.04 | 17,434.41 | 15,817.84 | 14,608.13 |
| 0804 | 19,794.82 | 15,591.12 | 14,145.37 | 13,062.99 |
| 0805 | 23,871.18 | 18,800.96 | 17,058.61 | 15,754.17 |
| 0806 | 29,700.77 | 23,392.89 | 21,225.04 | 19,600.70 |
| 0901 | 14,827.09 | 11,924.72 | 10,929.31 | 9,963.41 |
| 0902 | 19,752.89 | 15,887.72 | 14,561.54 | 13,272.64 |
| 0903 | 24,647.63 | 19,825.87 | 18,170.48 | 16,563.23 |
| 0904 | 31,152.73 | 25,057.59 | 22,965.84 | 20,934.64 |
| 1001 | 16,749.58 | 14,684.22 | 13,075.42 | 11,798.93 |
| 1002 | 20,774.70 | 18,212.41 | 16,216.93 | 14,632.98 |
| 1003 | 29,818.79 | 26,143.07 | 23,277.97 | 21,004.53 |
| 1101 | 21,021.61 | 21,021.61 | 16,698.33 | 15,690.50 |
| 1102 | 27,550.00 | 27,550.00 | 21,885.02 | 20,563.50 |
| 1201 | 15,261.90 | 14,817.77 | 13,493.15 | 12,587.81 |
| 1202 | 18,591.32 | 18,050.91 | 16,437.45 | 15,334.89 |
| 1203 | 23,080.75 | 22,409.90 | 20,405.11 | 19,037.00 |
| 1301 | 18,075.76 | 14,893.86 | 14,044.43 | 12,823.85 |
| 1302 | 23,001.55 | 18,953.14 | 17,872.33 | 16,319.43 |
| 1303 | 30,609.21 | 25,220.65 | 23,781.11 | 21,715.75 |
| 1401 | 14,084.80 | 11,575.32 | 10,468.10 | 9,419.89 |
| 1402 | 18,692.26 | 15,362.84 | 13,892.24 | 12,500.85 |
| 1403 | 22,531.03 | 18,516.78 | 16,744.92 | 15,067.79 |
| 1404 | 28,495.72 | 23,419.28 | 21,176.90 | 19,055.64 |
| 1501 | 16,317.87 | 13,145.30 | 12,103.30 | 11,645.20 |
| 1502 | 20,712.58 | 16,685.91 | 15,362.84 | 14,782.06 |
| 1503 | 25,129.03 | 20,243.60 | 18,637.91 | 17,934.44 |

TABLE 16—PROPOSED FY 2016 PAYMENT RATES—Continued

| CMG | Payment rate tier 1 | Payment rate tier 2 | Payment rate tier 3 | Payment rate no comorbidity |
|---|---|---|---|---|
| 1504 | 31,255.22 | 25,180.27 | 23,181.69 | 22,305.86 |
| 1601 | 17,715.48 | 13,025.73 | 12,795.90 | 11,766.32 |
| 1602 | 23,040.38 | 16,940.59 | 16,643.98 | 15,302.28 |
| 1603 | 29,762.88 | 21,885.02 | 21,499.90 | 19,768.42 |
| 1701 | 16,676.59 | 14,145.37 | 12,907.70 | 12,013.23 |
| 1702 | 21,563.57 | 18,291.61 | 16,690.57 | 15,532.11 |
| 1703 | 24,675.58 | 20,931.54 | 19,099.12 | 17,774.49 |
| 1704 | 32,446.29 | 27,523.60 | 25,113.50 | 23,372.70 |
| 1801 | 19,765.31 | 14,974.61 | 13,682.60 | 12,174.74 |
| 1802 | 29,000.41 | 21,970.43 | 20,075.89 | 17,863.01 |
| 1803 | 46,979.88 | 35,592.47 | 32,520.83 | 28,938.29 |
| 1901 | 17,859.90 | 15,527.45 | 15,100.40 | 13,201.20 |
| 1902 | 34,892.11 | 30,334.35 | 29,500.44 | 25,792.12 |
| 1903 | 55,992.92 | 48,678.76 | 47,340.16 | 41,387.89 |
| 2001 | 14,410.91 | 11,842.42 | 10,923.10 | 9,887.31 |
| 2002 | 18,637.91 | 15,316.25 | 14,126.73 | 12,788.13 |
| 2003 | 23,200.33 | 19,064.95 | 17,585.04 | 15,917.23 |
| 2004 | 29,882.45 | 24,556.01 | 22,650.60 | 20,502.94 |
| 2101 | 26,278.17 | 26,278.17 | 20,397.34 | 19,787.05 |
| 5001 | | | | 2,425.63 |
| 5101 | | | | 11,187.09 |
| 5102 | | | | 26,340.29 |
| 5103 | | | | 12,311.39 |
| 5104 | | | | 29,533.05 |

*H. Example of the Methodology for Adjusting the Proposed Federal Prospective Payment Rates*

Table 17 illustrates the methodology for adjusting the proposed federal prospective payments (as described in sections V.A. through V.F. of this proposed rule). The following examples are based on two hypothetical Medicare beneficiaries, both classified into CMG 0110 (without comorbidities). The proposed unadjusted federal prospective payment rate for CMG 0110 (without comorbidities) appears in Table 16.

*Example:* One beneficiary is in Facility A, an IRF located in rural Spencer County, Indiana, and another beneficiary is in Facility B, an IRF located in urban Harrison County, Indiana. Facility A, a rural non-teaching hospital has a Disproportionate Share Hospital (DSH) percentage of 5 percent (which would result in a LIP adjustment of 1.0156), a wage index of 0.8416, and a rural adjustment of 14.9 percent. Facility B, an urban teaching hospital, has a DSH percentage of 15 percent (which would result in a LIP adjustment of 1.0454 percent), a wage index of 0.8599, and a teaching status adjustment of 0.0784.

To calculate each IRF's labor and non-labor portion of the federal prospective payment, we begin by taking the unadjusted federal prospective payment rate for CMG 0110 (without comorbidities) from Table 16. Then, we multiply the labor-related share for FY 2016 (69.6 percent) described in section V.D. of this proposed rule by the proposed unadjusted federal prospective payment rate. To determine the non-labor portion of the proposed federal prospective payment rate, we subtract the labor portion of the proposed federal payment from the proposed unadjusted federal prospective payment.

To compute the proposed wage-adjusted federal prospective payment, we multiply the labor portion of the proposed federal payment by the appropriate proposed transition wage index, which may be found in Table A. This table is available through the Internet on the CMS Web site at *http://www.cms.hhs.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientRehabFacPPS/*. The resulting figure is the wage-adjusted labor amount. Next, we compute the proposed wage-adjusted federal payment by adding the wage-adjusted labor amount to the non-labor portion.

Adjusting the proposed wage-adjusted federal payment by the facility-level adjustments involves several steps. First, we take the wage-adjusted federal prospective payment and multiply it by the appropriate rural and LIP adjustments (if applicable). Second, to determine the appropriate amount of additional payment for the teaching status adjustment (if applicable), we multiply the teaching status adjustment (0.0784, in this example) by the wage-adjusted and rural-adjusted amount (if applicable). Finally, we add the additional teaching status payments (if applicable) to the wage, rural, and LIP-adjusted federal prospective payment rates. Table 17 illustrates the components of the adjusted payment calculation.

TABLE 17—EXAMPLE OF COMPUTING THE IRF FY 2016 FEDERAL PROSPECTIVE PAYMENT

| Steps | | | Rural Facility A (Spencer Co., IN) | | Urban Facility B (Harrison Co., IN) |
|---|---|---|---|---|---|
| 1 | Unadjusted Federal Prospective Payment | | $33,405.98 | | $33,405.98 |
| 2 | Labor Share | × | 0.696 | × | 0.696 |
| 3 | Labor Portion of Federal Payment | = | $23,250.56 | = | $23,250.56 |
| 4 | CBSA-Based Wage Index (shown in the Addendum, Tables 1 and 2) | × | 0.8416 | × | 0.8599 |
| 5 | Wage-Adjusted Amount | = | $19,567.67 | = | $19,993.16 |
| 6 | Non-Labor Amount | + | $ 10,155.42 | + | $10,155.42 |

TABLE 17—EXAMPLE OF COMPUTING THE IRF FY 2016 FEDERAL PROSPECTIVE PAYMENT—Continued

| Steps | | | Rural Facility A (Spencer Co., IN) | | Urban Facility B (Harrison Co., IN) |
|---|---|---|---|---|---|
| 7 | Wage-Adjusted Federal Payment | = | $29,723.09 | = | $30,148.58 |
| 8 | Rural Adjustment | × | 1.149 | × | 1.000 |
| 9 | Wage- and Rural-Adjusted Federal Payment | = | $34,151.83 | = | $30,148.58 |
| 10 | LIP Adjustment | × | 1.0156 | × | 1.0454 |
| 11 | FY 2016 Wage-, Rural- and LIP-Adjusted Federal Prospective Payment Rate | = | $34,684.60 | = | $31,517.33 |
| 12 | FY 2016 Wage- and Rural-Adjusted Federal Prospective Payment | | $34,151.83 | | $30,148.58 |
| 13 | Teaching Status Adjustment | × | 0 | × | 0.0784 |
| 14 | Teaching Status Adjustment Amount | = | $0.00 | = | $2,363.65 |
| 15 | FY 2016 Wage-, Rural-, and LIP-Adjusted Federal Prospective Payment Rate | + | $34,684.60 | + | $31,517.33 |
| 16 | Total FY 2016 Adjusted Federal Prospective Payment | = | $34,684.60 | = | $33,880.97 |

Thus, the proposed adjusted payment for Facility A would be $34,684.60, and the proposed adjusted payment for Facility B would be $33,880.97.

## VI. Proposed Update to Payments for High-Cost Outliers Under the IRF PPS

### *A. Proposed Update to the Outlier Threshold Amount for FY 2016*

Section 1886(j)(4) of the Act provides the Secretary with the authority to make payments in addition to the basic IRF prospective payments for cases incurring extraordinarily high costs. A case qualifies for an outlier payment if the estimated cost of the case exceeds the adjusted outlier threshold. We calculate the adjusted outlier threshold by adding the IRF PPS payment for the case (that is, the CMG payment adjusted by all of the relevant facility-level adjustments) and the adjusted threshold amount (also adjusted by all of the relevant facility-level adjustments). Then, we calculate the estimated cost of a case by multiplying the IRF's overall CCR by the Medicare allowable covered charge. If the estimated cost of the case is higher than the adjusted outlier threshold, we make an outlier payment for the case equal to 80 percent of the difference between the estimated cost of the case and the outlier threshold.

In the FY 2002 IRF PPS final rule (66 FR 41362 through 41363), we discussed our rationale for setting the outlier threshold amount for the IRF PPS so that estimated outlier payments would equal 3 percent of total estimated payments. For the 2002 IRF PPS final rule, we analyzed various outlier policies using 3, 4, and 5 percent of the total estimated payments, and we concluded that an outlier policy set at 3 percent of total estimated payments would optimize the extent to which we could reduce the financial risk to IRFs of caring for high-cost patients, while still providing for adequate payments for all other (non-high cost outlier) cases.

Subsequently, we updated the IRF outlier threshold amount in the FYs 2006 through 2015 IRF PPS final rules and the FY 2011 and FY 2013 notices (70 FR 47880, 71 FR 48354, 72 FR 44284, 73 FR 46370, 74 FR 39762, 75 FR 42836, 76 FR 47836, 76 FR 59256, and 77 FR 44618, 78 FR 47860, 79 FR 45872, respectively) to maintain estimated outlier payments at 3 percent of total estimated payments. We also stated in the FY 2009 final rule (73 FR 46370 at 46385) that we would continue to analyze the estimated outlier payments for subsequent years and adjust the outlier threshold amount as appropriate to maintain the 3 percent target.

To update the IRF outlier threshold amount for FY 2016, we propose to use FY 2014 claims data and the same methodology that we used to set the initial outlier threshold amount in the FY 2002 IRF PPS final rule (66 FR 41316 and 41362 through 41363), which is also the same methodology that we used to update the outlier threshold amounts for FYs 2006 through 2015. Based on an analysis of this updated data, we estimate that IRF outlier payments as a percentage of total estimated payments are approximately 3.2 percent in FY 2015. Therefore, we propose to update the outlier threshold amount to $9,698 to maintain estimated outlier payments at approximately 3 percent of total estimated aggregate IRF payments for FY 2016.

We invite public comment on the proposed update to the FY 2016 outlier threshold amount to maintain estimated outlier payments at approximately 3 percent of total estimated IRF payments.

### *B. Proposed Update to the IRF Cost-to-Charge Ratio Ceiling and Urban/Rural Averages*

In accordance with the methodology stated in the FY 2004 IRF PPS final rule (68 FR 45674, 45692 through 45694), we apply a ceiling to IRFs' CCRs. Using the methodology described in that final rule, we propose to update the national urban and rural CCRs for IRFs, as well as the national CCR ceiling for FY 2016, based on analysis of the most recent data that is available. We apply the national urban and rural CCRs in the following situations:

- New IRFs that have not yet submitted their first Medicare cost report.
- IRFs whose overall CCR is in excess of the national CCR ceiling for FY 2016, as discussed below.
- Other IRFs for which accurate data to calculate an overall CCR are not available.

Specifically, for FY 2016, we propose to estimate a national average CCR of 0.569 for rural IRFs, which we calculated by taking an average of the CCRs for all rural IRFs using their most recently submitted cost report data. Similarly, we propose to estimate a national average CCR of 0.437 for urban IRFs, which we calculated by taking an average of the CCRs for all urban IRFs using their most recently submitted cost report data. We apply weights to both of these averages using the IRFs' estimated costs, meaning that the CCRs of IRFs with higher costs factor more heavily into the averages than the CCRs of IRFs with lower costs. For this proposed rule, we have used the most recent available cost report data (FY 2013). This includes all IRFs whose cost reporting periods begin on or after October 1, 2012, and before October 1, 2013. If, for any IRF, the FY 2013 cost report was missing or had an ''as submitted'' status, we used data from a previous fiscal year's (that is, FY 2004 through FY 2012) settled cost report for that IRF. We do not use cost report data from before FY 2004 for any IRF because changes in IRF utilization since FY 2004 resulting from the 60 percent rule and IRF medical review activities suggest that these older data do not adequately reflect the current cost of care.

In accordance with past practice, we propose to set the national CCR ceiling at 3 standard deviations above the mean CCR. Using this method, the proposed national CCR ceiling would be 1.36 for

FY 2016. This means that, if an individual IRF's CCR exceeds this proposed ceiling of 1.36 for FY 2016, we would replace the IRF's CCR with the appropriate proposed national average CCR (either rural or urban, depending on the geographic location of the IRF). We calculated the proposed national CCR ceiling by:

*Step 1.* Taking the national average CCR (weighted by each IRF's total costs, as previously discussed) of all IRFs for which we have sufficient cost report data (both rural and urban IRFs combined).

*Step 2.* Estimating the standard deviation of the national average CCR computed in step 1.

*Step 3.* Multiplying the standard deviation of the national average CCR computed in step 2 by a factor of 3 to compute a statistically significant reliable ceiling.

*Step 4.* Adding the result from step 3 to the national average CCR of all IRFs for which we have sufficient cost report data, from step 1.

The proposed national average rural and urban CCRs and the proposed national CCR ceiling in this section will be updated in the final rule if more recent data becomes available to use in these analyses.

We invite public comment on the proposed update to the IRF CCR ceiling and the urban/rural averages for FY 2016.

## VII. ICD–10–CM Implementation for IRF PPS

In the FY 2015 IRF PPS final rule (79 FR 45872), we finalized conversions from the International Classification of Diseases, 9th Revision, Clinical Modification (ICD–9–CM) to the ICD–10–CM for the IRF PPS, which will be effective when ICD–10–CM becomes the required medical data code set for use on Medicare claims and IRF–PAI submissions. We remind providers of IRF services that the implementation date for ICD–10–CM is October 1, 2015. The ICD–10–CM lists are available for download from the CMS Web site at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientRehabFacPPS/Data-Files.html*.

## VIII. Revisions and Updates to the IRF QRP

### *A. Background and Statutory Authority*

Section 3004(b) of the Affordable Care Act amended section 1886(j)(7) of the Act, requiring the Secretary to establish the IRF QRP. This program applies to freestanding IRFs, as well as IRF units affiliated with either acute care facilities or critical access hospitals (CAHs). Beginning with the FY 2014 payment determination and subsequent years, the Secretary is required to reduce any annual update to the standard federal rate for discharges occurring during such fiscal year by 2 percentage points for any IRF that does not comply with the requirements established by the Secretary.

The Act requires that for the FY 2014 payment determination and subsequent years, each IRF submit data on quality measures specified by the Secretary in a form and manner, and at a time, specified by the Secretary. The Secretary is required to specify quality measures that are endorsed by the entity that holds the contract with the Secretary under section 1890(a) of the Act. This entity is currently the NQF. Information regarding the NQF is available at: *http://www.qualityforum.org/Measuring_Performance/Measuring_Performance.aspx*. The Act authorizes an exception under which the Secretary may specify non-endorsed quality measures for specified areas or medical topics determined appropriate by the Secretary for which a feasible or practical measure has not been endorsed by the NQF, as long as due consideration is given to NQF-endorsed measures or measures adopted by a consensus organization identified by the Secretary.

Additionally, section 2(a) of the Improving Medicare Post-Acute Care Transformation Act of 2014 (IMPACT Act) (Pub. L. 113–185, enacted on Oct. 6, 2014), amended title XVIII of the Act by adding section 1899B, titled Standardized Post-Acute Care (PAC) Assessment Data for Quality, Payment and Discharge Planning. Section 1899B(c)(1) requires that the Secretary specify not later than the applicable specified application date, as defined in section 1899B(a)(2)(E), quality measures on which IRF providers are required to submit standardized patient assessment data described in section 1899B(b)(1) and other necessary data specified by the Secretary. Section 1899B(c)(2)(A) requires, to the extent possible, the submission of the such quality measure data through the use of a PAC assessment instrument and the modification of such instrument as necessary to enable such use; for IRFs, this requirement refers to the IRF–PAI. In addition, section 1899B(d)(1) requires that the Secretary specify not later than the applicable specified application date, resource use and other measures on which IRF providers are required to submit any necessary data specified by the Secretary, which may include standardized assessment data in addition to claims data. Furthermore, section 2(c)(2) of the IMPACT Act amended section 1886(j)(7) of the Act by adding section 1886(j)(7)(F)(i), which requires IRF providers to submit to the Secretary data on the quality, resource use, and other measures required under sections 1899B(c)(1) and (d)(1) of the Act. Additionally, section 1886(j)(7)(F)(ii) requires that, beginning in FY 2019 and for each subsequent year, providers submit standardized patient assessment data required under section 1899B(b)(1). Under section 1886(j)(7)(F)(iii), the required data must be submitted in the form and manner, and at the time, specified by the Secretary.

Section 1899B(c)(1) and (d)(1) of the Act direct CMS to specify measures that relate to at least five stated quality domains and three stated resource use and other measure domains. The quality measures specified under section 1899B(c)(1) must be with respect to at least the following domains:

- Functional status, cognitive function, and changes in function and cognitive function;
- Skin integrity and changes in skin integrity;
- Medication reconciliation;
- Incidence of major falls; and
- Accurately communicating the existence of and providing for the transfer of health information and care preferences of an individual to the individual, family caregiver of the individual, and providers of services furnishing items and services to the individual when the individual transitions (1) from a hospital or CAH to another applicable setting, including a PAC provider or the home of the individual, or (2) from a PAC provider to another applicable setting, including a different PAC provider, hospital, CAH, or the home of the individual.

The resource use and other measures specified under section 1899B(d)(1) must be with respect to at least the following domains:

- Resource use measures, including total estimated Medicare spending per beneficiary;
- Discharge to community; and
- Measures to reflect all-condition risk-adjusted potentially preventable hospital readmissions rates.

Sections 1899B(c) and (d) of the Act indicate that data satisfying the eight measure domains in the IMPACT Act is the minimum data reporting requirement. Therefore, we may specify additional measures and additional domains.

Section 1899B(e)(2)(A) of the Act requires that each measure specified by the Secretary under that section be

endorsed by the entity that holds the contract with the Secretary under section 1890(a) of the Act. This entity is currently the NQF. Information regarding the NQF is available at: *http://www.qualityforum.org/Measuring_Performance/Measuring_Performance.aspx*. However, under section 1899B(e)(2)(B), the Secretary may specify a measure that has not been so endorsed in the case of a specified area of medical topic determined appropriate by the Secretary for which a feasible or practical measure has not been endorsed, as long as due consideration is given to measures that have been endorsed or adopted by a consensus organization identified by the Secretary.

Section 1899B(e)(3) of the Act mandates the use of the pre-rulemaking process of section 1890A with respect to the measures specified under sections 1899B(c) and (d) and provides that the Secretary may use expedited procedures, such as ad-hoc reviews, as necessary in the case of a measure required with respect to data submissions during the 1-year period before the applicable specified application date. In addition, section 1899B(e)(3)(B)(ii) gives the Secretary the option to waive the pre-rulemaking process for a measure if the pre-rulemaking process (including through the use of expedited procedures) would result in the inability of the Secretary to satisfy any deadline specified in section 1899B with respect to the measure.

Section 1886(j)(7)(E) of the Act requires the Secretary to establish procedures for making data submitted under the IRF QRP available to the public, and section 1899B(g) requires public reporting of the performance of individual providers on the quality, resource use, and other measures beginning not later than 2 years after the applicable specified application date. The Secretary must ensure, including through a process consistent with the provisions of section 1886(b)(3)(B)(viii)(VII), that each IRF is given the opportunity to review the data and information that is to be made public and to submit corrections prior to the publication or posting of this data. Public reporting of data and information under subsection (g)(1) must be consistent with the provisions of section 1886(j)(7)(E). In addition, section 1899B(f)(1), as added by the IMPACT Act, requires the Secretary to make confidential feedback reports available to post-acute providers on their performance on the measures required under section 1899B(c)(1) and (d)(1), beginning 1 year after the applicable specified application date.

For more information on the statutory history of the IRF QRP, please refer to the FY 2015 IRF PPS final rule (79 FR 45908). More information on the IMPACT Act is available at *https://www.govtrack.us/congress/bills/113/hr4994*.

As previously stated, the IMPACT Act adds a new section 1899B to the Act that imposes new data reporting requirements for certain post-acute care (PAC) providers, including IRFs. Sections 1899B(c)(1) and 1899B(d)(1) of the Act collectively require that the Secretary specify quality measures and resource use and other measures with respect to certain domains not later than the specified application date that applies to each measure domain and PAC provider setting. Section 1899B(a)(2)(E) of the Act delineates the specified application dates for each measure domain and PAC provider. The IMPACT Act also amends various sections of the Act, including section 1886(j)(7), to require the Secretary to reduce the otherwise applicable PPS payment to a PAC provider that does not report the new data in a form and manner, and at a time, specified by the Secretary. For IRFs, amended section 1886(j)(7)(A)(i) would require the Secretary to reduce the payment update for any IRF that does not satisfactorily submit the new required data.

Under the current IRF QRP, the general timeline and sequencing of measure implementation occurs as follows: specification of measures; proposal and finalization of measures through notice-and-comment rulemaking; IRF submission of data on the adopted measures; analysis and processing of the submitted data; notification to IRFs regarding their quality reporting compliance with respect to a particular FY; consideration of any reconsideration requests; and imposition of a payment reduction in a particular FY for failure to satisfactorily submit data with respect to that FY. Any payment reductions that are taken with respect to a FY begin approximately one year after the end of the data submission period for that fiscal year and approximately 2 years after we first adopt the measure.

To the extent that the IMPACT Act could be interpreted to shorten this timeline so as to require us to reduce an IRF's PPS payment for failure to satisfactorily submit data on a measure specified under section 1899B(c)(1) or (d)(1) of the Act beginning with the same FY as the specified application date for that measure, such a timeline would not be feasible. The current timeline discussed above reflects operational and other practical constraints, including the time needed to specify and adopt valid and reliable measures, collect the data, and determine whether an IRF has complied with our quality reporting requirements. It also takes into consideration our desire to give IRFs enough notice of new data reporting obligations so that they are prepared to timely start reporting the data. Therefore, we intend to follow the same timing and sequence of events for measures specified under section 1899B(c)(1) and (d)(1) of the Act that we currently follow for other measures specified under the IRF QRP. We intend to specify each of these measures no later than the specified application dates set forth in section 1899B(a)(2)(E) of the Act and propose to adopt them consistent with the requirements in the Act and Administrative Procedure Act. To the extent that we finalize a proposal to adopt a measure for the IRF QRP that satisfies an IMPACT Act measure domain, we intend to require IRFs to report data on the measure for the fiscal year that begins 2 years after the specified application date for that measure. Likewise, we intend to require IRFs to begin reporting any other data specifically required under the IMPACT Act for the FY that begins 2 years after we adopt requirements that would govern the submission of that data.

*B. General Considerations Used for Selection of Quality, Resource Use, and Other Measures for the IRF QRP*

We refer readers to the FY 2015 IRF PPS final rule (79 FR 45911) for a detailed discussion of the considerations we use for the selection of IRF QRP quality measures. In this proposed rule, we apply the same considerations to the selection of quality, resource use, and other measures required under section 1899B for the IRF QRP, in addition to the considerations discussed below.

The quality measures we are proposing address the measure domains that the Secretary is required to specify under sections 1899B(c)(1) and (d)(1) of the Act. The totality of the measures considered to meet the requirements of the IMPACT Act will evolve, and additional measures will be proposed over time as they become available.

To meet the first specified application date applicable to IRFs under section 1899B(a)(2)(E) of the Act, which is October 1, 2016, we have focused on measures that:

- Correspond to a measure domain in sections 1899B(c)(1) or (d)(1) of the Act and are setting-agnostic: for example,

falls with major injury and the incidence of pressure ulcers;

- Are currently adopted for 1 or more of our PAC quality reporting programs, are already either NQF-endorsed and in use or finalized for use, or already previewed by the Measure Applications Partnership (MAP) with support;
- Minimize added burden on IRFs;
- Minimize or avoid, to the extent feasible, revisions to the existing items in assessment tools currently in use (for example, the IRF–PAI); and
- Where possible, the avoidance duplication of existing assessment items.

In our selection and specification of measures, we employ a transparent process in which we seek input from stakeholders and national experts and engage in a process that allows for pre-rulemaking input on each measure, as required by section 1890A of the Act. This process is based on a private-public partnership, and it occurs via the MAP. The MAP is composed of multi-stakeholder groups convened by the NQF, our current contractor under section 1890 of the Act, to provide input on the selection of quality and efficiency measures described in section 1890(b)(7)(B). The NQF must convene these stakeholders and provide us with the stakeholders' input on the selection of such measures. We, in turn, must take this input into consideration in selecting such measures. In addition, the Secretary must make available to the public by December 1 of each year a list of such measures that the Secretary is considering under Title XVIII of the Act.

As discussed in section VIII.A. of this proposed rule 1899B(e)(3) provides that the pre-rulemaking process required by section 1890A of the Act applies to the measures required under section 1899B, subject to certain exceptions for expedited procedures or, alternatively, waiver of section 1890A.

We initiated an ad hoc MAP process for the review of the quality measures under consideration for proposal, in preparation for adoption of those quality measures into the IRF QRP that are required by the IMPACT Act, and that must be implemented by October 1, 2016. The List of Measures under Consideration (MUC List) under the IMPACT Act was made public on February 5, 2015. Under the IMPACT Act, these measures must be standardized so they can be applied across PAC settings and must correspond to measure domains specified in sections 1899B(c)(1) and (d)(1) of the IMPACT Act. The MAP reviewed each IMPACT Act-related quality measure proposed in this proposed rule for the IRF QRP, in light of its intended cross-setting use. We refer to sections VIII.F. and VIII.G. of this proposed rule for more information on the MAP's recommendations. The MAP's final report, MAP Off-Cycle Deliberations 2015: Measures under Consideration to Implement Provisions of the IMPACT Act: Final Report, is available at *http://www.qualityforum.org/Setting_Priorities/Partnership/MAP_Final_Reports.aspx*.

As discussed in section VIII.A. of this proposed rule, section 1899B(j) of the Act, requires that we allow for stakeholder input, such as through town halls, open door forums, and mailbox submissions, before the initial rulemaking process to implement section 1899B. To meet this requirement, we provided the following opportunities for stakeholder input: Our measure development contractor(s) convened a technical expert panel (TEP) that included stakeholder experts and patient representatives on February 3, 2015; we provided 2 separate listening sessions on February 10th and March 24, 2015; we sought public input during the February 9th 2015 ad hoc MAP process provided for the sole purpose of reviewing the measures we are proposing in response to the IMPACT Act. Additionally, we implemented a public mail box for the submission of comments in January, 2015, *PACQuality Initiative@cms.hhs.gov,* which is listed on our post-acute care quality initiatives Web site at *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Post-Acute-Care-Quality-Initiatives/IMPACT-Act-of-2014-and-Cross-Setting-Measures.html,* and held a National Stakeholder Special Open Door Forum to seek input on the measures on February 25, 2015. The slides from the Special Open Door Forum are available at *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Post-Acute-Care-Quality-Initiatives/IMPACT-Act-of-2014-and-Cross-Setting-Measures.html*.

For measures that do not have NQF endorsement, or which are not fully supported by the MAP for the IRF QRP, we are proposing for the IRF QRP for the purposes of satisfying the measure domains required under the IMPACT Act that most closely align with the national priorities identified in the National Quality Strategy (*http://www.ahrq.gov/workingforquality/*) and for which the MAP supports the measure concept. Further discussion as to the importance and high-priority status of these measures in the IRF setting is included under each quality measure proposal in this proposed rule. In addition, for measures not endorsed by the NQF, we have sought, to the extent practicable, to adopt measures that have been endorsed or adopted by a national consensus organization, recommended by multi-stakeholder organizations, and/or developed with the input of providers, purchasers/payers, and other stakeholders.

*C. Policy for Retention of IRF QRP Measures Adopted for Previous Payment Determinations*

In the CY 2013 Hospital Outpatient Prospective Payment System/Ambulatory Surgical Center (OPPS/ASC) Payment Systems and Quality Reporting Programs final rule (77 FR 68500 through 68507), we adopted a policy that would allow any quality measure adopted for use in the IRF QRP to remain in effect until the measure was actively removed, suspended, or replaced. For the purpose of streamlining the rulemaking process, when we initially adopt a measure for the IRF QRP for a payment determination, this measure will also be adopted for all subsequent years or until we propose to remove, suspend, or replace the measure. For further information on how measures are considered for removal, suspension, or replacement, please refer to the CY 2013 OPPS/ASC final rule (77 FR 68500 through 68507).

We are not proposing any changes to this policy for retaining IRF QRP measures adopted for previous payment determinations.

*D. Policy for Adopting Changes to IRF QRP Measures*

In the CY 2013 OPPS/ASC final rule (77 FR 68500 through 68507), we adopted a subregulatory process to incorporate NQF updates to IRF quality measure specifications that do not substantively change the nature of the measure. Substantive changes will be proposed and finalized through rulemaking. Regarding what constitutes a substantive versus a nonsubstantive change, we expect to make this determination on a measure-by-measure basis. Examples of such nonsubstantive changes might include updated diagnosis or procedure codes; medication updates for categories of medications, broadening of age ranges, and changes to exclusions for a measure. The subregulatory process for nonsubstantive changes will include revision of the IRF PAI Manual and posting of updates on CMS Web site at: *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientRehabFacPPS/IRFPAI.html*.

Examples of changes that we might consider to be substantive would be those in which the changes are so significant that the measure is no longer the same measure, or when a standard of performance assessed by a measure becomes more stringent, such as changes in acceptable timing of medication, procedure/process, test administration, or expansion of the measure to a new setting.

We are not proposing any changes to this policy for adopting changes to IRF QRP measures.

*E. Quality Measures Previously Finalized for and Currently Used in the IRF QRP*

1. Measures Finalized in the FY 2012 IRF PPS Final Rule

In the FY 2012 IRF PPS final rule (76 FR 47874 through 47878), we adopted applications of two quality measures for use in the first data reporting cycle of the IRF QRP: (1) An application of Catheter-Associated Urinary Tract Infection (CAUTI) for Intensive Care Unit Patients (NQF#0138); and (2) an application of Percent of Residents with Pressure Ulcers That Are New or Worsened (Short-Stay) (NQF #0678). We adopted applications of these 2 measures because neither of them, at the time, was endorsed by the NQF for the IRF setting. We also discussed our plans to propose a 30-Day All-Cause Risk-Standardized Post-IRF Discharge Hospital Readmission Measure.

2. Measures Finalized in the CY 2013 OPPS/ASC Final Rule

In the CY 2013 OPPS/ASC final rule (77 FR 68500 through 68507), we adopted:

a. National Healthcare Safety Network (NHSN) Catheter Associated Urinary Tract Infection (CAUTI) Outcome Measure (NQF #0138)

In the CY 2013 OPPS/ASC final rule, we adopted the NHSN CAUTI Outcome Measure (NQF #0138) (replacing an application of this measure that we initially adopted in the FY 2012 IRF PPS (76 FR 47874 through 47886)). Data submission for the NQF-endorsed measure applies to the FY 2015 adjustments to the IRF PPS annual increase factor and all subsequent annual increase factors (77 FR 68504 through 68505). Additional information about this measure can be found at *http://www.qualityforum.org/QPS/0138*. IRFs submit their CAUTI measure data to the Centers for Disease Control and Prevention (CDC) NHSN. Details regarding submission of IRF CAUTI data to the NHSN can be found at the NHSN Web site at *http://www.cdc.gov/nhsn/inpatient-rehab/index.html*.

b. Application of Percent of Residents or Patients With Pressure Ulcers That Are New or Worsened (Short-Stay) (NQF #0678)

In the CY 2013 OPPS/ASC final rule (77 FR 68500 through 68507), we adopted a non-risk-adjusted application of this measure.

3. Measures Finalized in the FY 2014 IRF/PPS Final Rule

For the FY 2016 adjustments to the IRF PPS annual increase factor, we finalized the adoption of one additional measure: Influenza Vaccination Coverage among Healthcare Personnel (NQF #0431) (78 FR 47902 through 47921). In addition, for the FY 2017 adjustments to the IRF PPS annual increase factor, we finalized the adoption of three additional quality measures: (1) All-Cause Unplanned Readmission Measure for 30 Days Post-Discharge from Inpatient Rehabilitation Facilities; (2) Percent of Residents or Patients Who Were Assessed and Appropriately Given the Seasonal Influenza Vaccine (Short-Stay) (NQF #0680); and (3) the Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (Short-Stay) (NQF #0678). In the FY 2014 IRF PPS final rule (78 FR 47912 through 47916), we also adopted a revised version of the IRF–PAI (Version 1.2), which providers began using as of October 1, 2014, for the FY 2017 adjustments to the IRF PPS annual increase factor and subsequent year annual increase factors.

a. Influenza Vaccination Coverage Among Healthcare Personnel (NQF #0431)

In the FY 2014 IRF PPS final rule (78 FR 47905 through 47906), we adopted the CDC-developed Influenza Vaccination Coverage among Healthcare Personnel (NQF #0431) quality measure that is collected by the CDC via the NHSN. We finalized that the Influenza Vaccination Coverage among Healthcare Personnel (NQF #0431) measure have its own reporting period to align with the influenza vaccination season, which is defined by the CDC as October 1 (or when the vaccine becomes available) through March 31. We further finalized that IRFs submit their data for this measure to the NHSN (*http://www.cdc.gov/nhsn/*). We also finalized that for the FY 2016 adjustments to the IRF PPS annual increase factor, data collection will cover the period from October 1, 2014 (or when the vaccine becomes available) through March 31, 2015.

Details related to the use of the NHSN for data submission and information on definitions, numerator data, denominator data, data analyses, and measure specifications for the Influenza Vaccination Coverage among Healthcare Personnel (NQF #0431) measure can be found at *http://www.cdc.gov/nhsn/inpatient-rehab/hcp-vacc/index.html* and at *http://www.qualityforum.org/QPS/0431*. While IRFs can enter information in NHSN at any point during the influenza vaccination season for the Influenza Vaccination Coverage among Healthcare Personnel (NQF #0431) measure, data submission is only required once per influenza vaccination season. We finalized that the final deadline for data submission associated with this quality measure is May 15th of each year.

b. All-Cause Unplanned Readmission Measure for 30 Days Post-Discharge From Inpatient Rehabilitation Facilities (NQF #2502)

In the FY 2014 IRF PPS final rule (78 FR 47906 through 47910), we adopted an All-Cause Unplanned Readmission Measure for 30 Days Post-Discharge from IRFs. This quality measure estimates the risk-standardized rate of unplanned, all-cause hospital readmissions for cases discharged from an IRF who were readmitted to a short-stay acute care hospital or LTCH, within 30 days of an IRF discharge. We noted that this is a claims-based measure that will not require reporting of new data by IRFs and thus will not be used to determine IRF reporting compliance for the IRF QRP.

c. Percent of Residents or Patients Who Were Assessed and Appropriately Given the Seasonal Influenza Vaccine (Short-Stay) (NQF #0680)

In the FY 2014 IRF PPS final rule (78 FR 47906 through 47911), we adopted the Percent of Residents or Patients Who Were Assessed and Appropriately Given the Seasonal Influenza Vaccine (Short-Stay) (NQF #0680) measure for the IRF QRP.

We added the data elements needed for this measure to the ''Quality Indicator'' section of the IRF–PAI Version 1.2, which became effective on October 1, 2014. These data elements are harmonized with data elements (O0250: Influenza Vaccination Status) from the Minimum Data Set (MDS) 3.0 and the LTCH CARE Data Set Version 2.01, and the specifications and data elements for this measure are available at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientRehabFacPPS/IRFPAI.html.*

For purposes of this quality measure, the influenza vaccination season is October 1 (or when the vaccine becomes available) through March 31 each year. We also finalized that for the FY 2017 adjustments to the IRF PPS annual increase factor, data collection covers the period from October 1, 2014 (or when the vaccine becomes available) through March 31, 2015.

The measure specifications for this measure can be found on the CMS Web site at *http://www.qualityforum.org/QPS/0680*.

d. Percent of Residents or Patients With Pressure Ulcers That Are New or Worsened (Short-Stay) (NQF #0678)

In the FY 2014 IRF PPS final rule (78 FR 47911 through 47912), we adopted the NQF-endorsed version of the Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (Short-Stay) (NQF #0678), with data collection beginning October 1, 2014, using the IRF–PAI Version 1.2, for quality reporting affecting the FY 2017 adjustments to the IRF PPS annual increase factor and subsequent year annual increase factors. The measure specifications for this measure can be found on the CMS Web site at *http://www.qualityforum.org/QPS/0678*.

4. Measures Finalized in the FY 2015 IRF–PPS Final Rule

In the FY 2015 IRF–PPS final rule, we adopted two additional quality measures:

a. National Healthcare Safety Network (NHSN) Facility-Wide Inpatient Hospital-Onset Methicillin-Resistant Staphylococcus aureus (MRSA) Bacteremia Outcome Measure (NQF #1716)

In the FY 2015 IRF PPS final rule (79 FR 45911 through 45913), we adopted the NHSN Facility-Wide Inpatient Hospital-Onset MRSA Bacteremia Outcome Measure (NQF #1716), a measure of hospital-onset unique blood source MRSA laboratory-identified events among all patients in the inpatient rehabilitation facility. This measure was developed by the CDC and is NQF-endorsed. We finalized that data submission would start on January 1, 2015, and that adjustments to the IRF PPS annual increase factor would begin with FY 2017. Data are submitted via the CDC's NHSN. Details related to the procedures for using the NHSN for data submission and information on definitions, numerator data, denominator data, data analyses, and measure specifications for the proposed NHSN Facility-Wide Inpatient Hospital-Onset MRSA Bacteremia Outcome Measure (NQF #1716) can be found at *http://www.qualityforum.org/QPS/1716* and *http://www.cdc.gov/nhsn/inpatient-rehab/mdro-cdi/index.html.*

b. National Healthcare Safety Network (NHSN) Facility-Wide Inpatient Hospital-Onset Clostridium difficile Infection (CDI) Outcome Measure (NQF #1717)

In the FY 2015 IRF PPS final rule (79 FR 45913 through 45914), we adopted the NHSN Facility-Wide Inpatient Hospital-Onset CDI Outcome Measure (NQF #1717), a measure of hospital-onset CDI laboratory-identified events among all inpatients in the facility. This measure was developed by the CDC and is NQF-endorsed. We finalized that data would be submitted starting January 1, 2015, and that adjustments to the IRF PPS annual increase factor would begin with FY 2017. Providers will use the CDC/NHSN data collection and submission framework for reporting of the proposed NHSN Facility-Wide Inpatient Hospital-Onset CDI Outcome Measure (NQF #1717). Details related to the procedures for using the NHSN for data submission and information on definitions, numerator data, denominator data, data analyses, and measure specifications for the proposed NHSN Facility-Wide Inpatient Hospital-Onset CDI Outcome Measure (NQF #1717) can be found at *http://www.qualityforum.org/QPS/1717* and *http://www.cdc.gov/nhsn/inpatient-rehab/mdro-cdi/index.html*.

TABLE 18—QUALITY MEASURES PREVIOUSLY FINALIZED FOR AND CURRENTLY USED IN THE IRF QUALITY REPORTING PROGRAM

| NQF Measure ID | Quality measure title | Data submission mechanism |
|---|---|---|
| NQF #0138 | National Health Safety Network (NHSN) Catheter-Associated Urinary Tract Infection (CAUTI) Outcome Measure. | CDC NHSN. |
| NQF #0431 | Influenza Vaccination Coverage among Healthcare Personnel | CDC NHSN. |
| NQF #0680 | Percent of Residents or Patients Who Were Assessed and Appropriately Given the Seasonal Influenza Vaccine (Short-Stay). | IRF–PAI. |
| NQF #0678 | Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (Short-Stay) | IRF–PAI. |
| NQF #2502 | All-Cause Unplanned Readmission Measure for 30 Days Post-Discharge from Inpatient Rehabilitation Facilities*. | Claims-based. |
| NQF #1716 | National Healthcare Safety Network (NHSN) Facility-Wide Inpatient Hospital-Onset Methicillin-Resistant *Staphylococcus aureus* (MRSA) Bacteremia Outcome Measure. | CDC NHSN. |
| NQF #1717 | National Healthcare Safety Network (NHSN) Facility-Wide Inpatient Hospital-Onset *Clostridium difficile* Infection (CDI) Outcome Measure.. | CDC NHSN. |

* Claims-based measure; no additional data submission required by IRFs.

5. Continuation of Previously Adopted IRF QRP Quality Measures for the FY 2018 Payment Determination and Subsequent Years

For the FY 2018 adjustments to the IRF PPS annual increase factor, we are retaining the previously discussed measures: (1) NHSN CAUTI Outcome Measure (NQF #0138); (2) Percent of Residents or Patients Who Were Assessed and Appropriately Given the Seasonal Influenza Vaccine (Short-Stay) (NQF #0680); (3) Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (Short-Stay) (NQF #0678); (4) All-Cause Unplanned Readmission Measure for 30 Days Post-Discharge from IRFs (NQF #2502); (5) Influenza Vaccination Coverage among Healthcare Personnel (NQF #0431); (6) NHSN Facility-Wide Inpatient Hospital-Onset MRSA Bacteremia Outcome Measure (NQF #1716), (7) and NHSN Facility-Wide Inpatient Hospital-Onset *CDI* Outcome Measure (NQF #1717) quality measures.

*F. Proposal of Previously Adopted IRF QRP Quality Measures for the FY 2018 Payment Determination and Subsequent Years*

For the FY 2018 payment determination and subsequent years, we are proposing to adopt two quality measures to reflect NQF endorsement or to meet the requirements of the IMPACT Act: (1) All-Cause Unplanned Readmission Measure for 30 Days Post-Discharge from IRFs (NQF #2502); and (2) an application of Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (NQF #0678). These quality measures are discussed in more detail below.

1. Proposing Quality Measure To Reflect NQF Endorsement: All-Cause Unplanned Readmission Measure for 30 Days Post Discharge From IRFs (NQF #2502)

The All-Cause Unplanned Readmission Measure for 30 Days Post Discharge from IRFs (NQF #2502) measure was adopted for use in the IRF QRP in the FY 2014 IRF PPS final rule (78 FR 47906 through 47910). We are proposing to adopt this measure for the FY 2018 payment determination and subsequent years to reflect that it is NQF-endorsed for use in the IRF setting as of December 2014. For current specifications of this measure, please visit *http://www.qualityforum.org/QPS/2502*.

As adopted through the FY 2014 IRF PPS final rule, All-Cause Unplanned Readmission Measure for 30 Days Post Discharge from IRFs (NQF #2502) is a Medicare Fee-For-Service (FFS) claims-based measure. IRFs would not be required to report any additional data to CMS because we would calculate this measure based on claims data that are already reported to the Medicare program for payment purposes. We believe there would be no additional data collection burden on providers resulting from our implementation of All-Cause Unplanned Readmission Measure for 30 Days Post Discharge from IRFs (NQF #2502) as part of the IRF QRP. In the FY 2014 IRF PPS final rule, we stated that we would provide initial feedback to providers, prior to public reporting of this measure, based on Medicare FFS claims data from CY 2013 and CY 2014.

The description of this measure provided in the FY 2014 IRF PPS final rule (78 FR 47906 through 47910) noted this measure was the ratio of the number of risk-adjusted predicted unplanned readmissions for each individual IRF to the average number of risk-adjusted predicted unplanned readmissions for the same patients treated at the average IRF. This ratio is referred to as the standardized risk ratio (SRR). However, the measure specifications compute the risk-standardized readmission rate (RSRR) for this measure. The RSRR is the SRR multiplied by the overall national raw readmission rate for all IRF stays. The outcome is expressed as a percentage rate rather than a ratio.

This measure, which harmonizes with the Hospital-Wide All-Cause Readmission Measure (NQF #1789) currently in use in the Inpatient Quality Reporting Program, continues to use the CMS Planned Readmission Algorithm as the main component for identifying planned readmissions. This algorithm was refined in the FY 2015 IPPS/LTCH PPS final rule (79 FR 50211 through 50216). The All-Cause Unplanned Readmission Measure for 30 Days Post Discharge from IRFs (NQF #2502) measure for the IRF QRP will utilize the most recently updated version of the algorithm. A complete description of the CMS Planned Readmission Algorithm, which includes lists of planned diagnoses and procedures, can be found on CMS Web site (*http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/HospitalQualityInits/Measure-Methodology.html*). The additional post-acute care planned readmission procedures specified for All-Cause Unplanned Readmission Measure for 30 Days Post Discharge from IRFs (NQF #2502) remain the same as when first adopted through FY 2014 IRF PPS final rule. Documentation on the additional post-acute care planned readmissions for this measure is available at *http://www.qualityforum.org/QPS/2502*. *http://www.qualityforum.org/ProjectMeasures.aspx?projectID=73619*.

We invite public comments in response to our proposal to adopt the NQF-endorsed version of All-Cause Unplanned Readmission Measure for 30 Days Post Discharge from IRFs (NQF #2502) for the IRF QRP for the FY 2018 payment determination and subsequent years.

2. Quality Measure Addressing the Domain of Skin Integrity and Changes in Skin Integrity: Percent of Residents or Patients With Pressure Ulcers That Are New or Worsened (Short Stay) (NQF #0678)

Section 1899B(c)(1) of the Act directs the Secretary to specify quality measures on which PAC providers are required under the applicable reporting provisions to submit standardized patient assessment data and other necessary data specified by the Secretary with respect to five quality domains, one of which is skin integrity and changes in skin integrity. The specified application date by which the Secretary must specify quality measures to address this domain for IRFs, Skilled Nursing Facilities (SNFs), and LTCHs is October 1, 2016, and for HHAs is January 1, 2017. To satisfy these requirements, we are proposing to adopt the measure Percent of Residents or Patients with Pressure Ulcers that are New or Worsened (Short-Stay) (NQF #0678) that we have already adopted for the IRF QRP as a cross-setting quality measure that satisfies the domain of skin integrity and changes in skin integrity. The reporting of data for this measure would affect the payment determination for FY 2018 and subsequent years. For the IRF setting, the measure assesses the percent of patients with stage 2 through stage 4 pressure ulcers that are new or worsened since admission.

As described in the FY 2012 IRF PPS final rule (76 FR 47876 through 47878), pressure ulcers are high-cost adverse events and are an important measure of quality. For information on the history and rationale for the relevance, importance, and applicability of this measure in the IRF QRP, we refer readers to the FY 2012 IRF PPS final rule and the FY 2014 IRF PPS final rule (78 FR 47911 through 47912). Details regarding the specifications for this measure are available on the NQF Web site at *http://www.qualityforum.org/QPS/0678*.

The IMPACT Act requires the implementation of quality measures and resource use and other measures that are standardized and interoperable across PAC settings, as well as the reporting of standardized patient assessment data and other necessary data specified by the Secretary. This requirement is in line with the NQF Steering Committee report, which stated ''to understand the impact of pressure ulcers across providers, quality measures addressing prevention, incidence, and prevalence of pressure ulcers must be harmonized and aligned.'' [2] Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (Short Stay) (NQF #0678) is NQF-endorsed for the IRF setting and has been successfully implemented using a harmonized set of data elements in three PAC settings (IRF, LTCH and SNF). As discussed in section VIII.E. of this proposed rule, an

[2] National Quality Forum. National voluntary consensus standards for developing a framework for measuring quality for prevention and management of pressure ulcers. April 2008. Available from *http://www.qualityforum.org/Projects/Pressure_Ulcers.aspx*.>

application of this measure was adopted for the IRF QRP in the FY 2012 IRF PPS final rule (76 FR 47876 through 47878) for the FY 2014 payment determination and subsequent years, and the current NQF-endorsed version of the measure was finalized in the FY 2014 IRF PPS final rule (78 FR 47911 through 47912) for the FY 2017 payment determination and subsequent years. The measure has been in use in the IRF QRP since October 1, 2012, and currently, IRFs are submitting data for this measure using the IRF–PAI.

The Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (Short Stay) (NQF #0678) measure was adopted for use in the LTCH QRP in the FY 2012 IPPS/LTCH PPS final rule (76 FR 51748 through 51756) for the FY 2014 payment determination and subsequent years, and has been successfully submitted by LTCHs using the LTCH Continuity Assessment Record and Evaluation (CARE) Data Set since October 2012. It has also been implemented in CMS' Nursing Home Quality Initiative, using the MDS 3.0 since 2011, and is currently reported on CMS' Nursing Home Compare at *http://www.medicare.gov/nursinghomecompare/search.html*.

A TEP convened by our measure development contractor in February 2015 provided input on the measure specifications and the feasibility and clinical appropriateness of implementing the measure as a cross-setting quality measure under the IMPACT Act of 2014, for use across PAC settings, including the IRF setting. The TEP supported the implementation of this measure across PAC providers and also supported our efforts to standardize this measure for cross-provider development. Additionally, the MAP, convened by the NQF, met on February 9, 2015 and provided input to CMS. The MAP supported the use of Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (Short-Stay) (NQF #0678) in the IRF QRP as a cross-setting quality measure to be specified in accordance with the IMPACT Act of 2014. MAP noted that this measure addresses one of its previously identified PAC/LTC core concepts as well as an IMPACT Act domain. More information about the MAP's recommendations for this measure is available at: *http://www.qualityforum.org/Setting_Priorities/Partnership/MAP_Final_Reports.aspx*.

We propose that that data collection for Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (Short-Stay) (NQF #0678) continue to occur through the quality indicator section of the IRF–PAI submitted through the Quality Improvement Evaluation System (QIES) Assessment Submission and Processing (ASAP) system. IRFs have been submitting data on the Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (Short Stay) measure (NQF #0678) through the quality indicator section of the IRF–PAI since October 2012. For more information on IRF reporting using the QIES ASAP system refer to: *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting/Technical-Information.html*.

In an effort to further harmonize the data elements across PAC providers, we propose an update to the IRF–PAI items used to calculate the Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (Short Stay) measure (NQF #0678) to align with the items included in the LTCH CARE Data Set and the MDS 3.0. The proposed modified IRF–PAI items used to identify new or worsened pressure ulcers consist of: M0800A: Worsening in Pressure Ulcer Status Since Admission, Stage 2; M0800B: Worsening in Pressure Ulcer Status Since Admission, Stage 3; and M0800C: Worsening in Pressure Ulcer Status Since Admission, Stage 4. We are not proposing a change to the IRF–PAI items used to risk adjust this quality measure. These items consist of: FIM® Item 39I (Transfers: Bed, Chair, and Wheelchair), FIM® Item 32 (Bowel Frequency of Accidents), I0900A (Peripheral Vascular Disease (PVD)), I0900B (Peripheral Arterial Disease (PAD)), I2900A (Diabetes Mellitus), 25A (Height), and 26A (Weight). More information about the IRF–PAI items is available at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientRehabFacPPS/IRFPAI.html*. For more information about the proposed changes to the IRF–PAI, see *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientRehabFacPPS/IRFPAI.html*.

The specifications and data elements for the Percent of Residents or Patients with Pressure Ulcers that are New or Worsened (Short Stay) (NQF #0678), are available in the IRF–PAI training manual at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientRehabFacPPS/IRFPAI.html.*

We invite public comment on our proposal to specify and adopt Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (Short Stay) (NQF #0678) for the IRF QRP for the FY 2018 payment determination and subsequent years to fulfill the requirements in the IMPACT Act.

Request for public comments regarding future measure development for Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (Short Stay) (NQF #0678)

As part of our ongoing measure development efforts, we are considering a future update to the numerator of the quality measure Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (Short Stay) (NQF #0678). This update would hold providers accountable for the development of unstageable pressure ulcers, including suspected deep tissue injuries (sDTIs). Under this possible future change, the numerator of the quality measure would be updated to include unstageable pressure ulcers, including sDTIs, that are new or developed in the facility, as well as Stage 1 or 2 pressure ulcers that become unstageable due to slough or eschar (indicating progression to a Stage 3 or 4 pressure ulcer) after admission. At this time, we are not proposing the implementation of this change (that is, including sDTIs and unstageable pressure ulcers in the numerator) in the IRF QRP, but are soliciting public comment on this potential area of measure development.

Our measure development contractor convened a cross-setting pressure ulcer TEP that strongly recommended that we hold providers accountable for the development of new unstageable pressure ulcers by including these pressure ulcers in the numerator of the quality measure. Although the TEP acknowledged that unstageable pressure ulcers, including sDTIs, cannot and should not be assigned a numeric stage, panel members recommended that these be included in the numerator of Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (Short Stay) (NQF #0678) as a new pressure ulcer if it developed in the facility. The TEP also recommended that a Stage 1 or 2 pressure ulcer that becomes unstageable due to slough or eschar should be considered worsened, because the presence of slough or eschar indicates a full thickness (equivalent to Stage 3 or 4) wound.[3] [4] These

[3] Schwartz, M., Nguyen, K.H., Swinson Evans, T.M., Ignaczak, M.K., Thaker, S., and Bernard, S.L.: Development of a Cross-Setting Quality Measure for Pressure Ulcers: OY2 Information Gathering, Final Report. Centers for Medicare & Medicaid Services, November 2013. Available: *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Post-Acute-Care-Quality-Initiatives/Downloads/Development-of-a-Cross-Setting-Quality-Measure-for-Pressure-Ulcers-Information-Gathering-Final-Report.pdf*.

recommendations were supported by technical and clinical advisors and the National Pressure Ulcer Advisory Panel (NPUAP).[5] Furthermore, exploratory data analysis conducted by our measure development contractor suggests that the addition of unstageable pressure ulcers, including sDTIs, would increase the observed incidence of new or worsened pressure ulcers at the facility level and may improve the ability of the quality measure to discriminate between poor- and high-performing facilities.

We invite public comment to inform our future measure development efforts to include unstageable pressure ulcers, including sDTIs, in the numerator of the quality measure Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (Short Stay) (NQF #0678).

*G. Proposed Additional IRF QRP Quality Measures for the FY 2018 Payment Determination and Subsequent Years*

We are proposing to adopt 6 additional quality measures beginning with the FY 2018 payment determination. These new proposed quality measures are: (1) An application of Percent of Residents Experiencing One or More Falls with Major Injury (Long Stay) (NQF #0674); (2) an application of Percent of LTCH Patients with an Admission and Discharge Functional Assessment and a Care Plan That Addresses Function (NQF #2631; under review); (3) IRF Functional Outcome Measure: Change in Self-Care Score for Medical Rehabilitation Patients (NQF #2633; under review); (4) IRF Functional Outcome Measure: Change in Mobility Score for Medical Rehabilitation Patients (NQF #2634; under review); (5) IRF Functional Outcome Measure: Discharge Self-Care Score for Medical Rehabilitation Patients (NQF #2635; under review); and (6) IRF Functional Outcome Measure: Discharge Mobility Score for Medical Rehabilitation Patients (NQF #2636; under review).

1. Quality Measure Addressing the Domain of the Incidence of Major Falls: An Application of Percent of Residents Experiencing One or More Falls With Major Injury (Long Stay) (NQF #0674)

Section 1899B(c)(1) of the Act directs the Secretary to specify quality measures on which PAC providers are required under the applicable reporting provisions to submit standardized patient assessment data and other necessary data specified by the Secretary with respect to five quality domains, one of which is the incidence of major falls. The specified application date by which the Secretary must specify quality measures to address this domain for IRFs, SNFs, and LTCHs is October 1, 2016, and for HHAs is January 1, 2019. To satisfy these requirements, we are proposing to adopt an application of Percent of Residents Experiencing One of More Falls with Major Injury (Long Stay) (NQF #0674) in the IRF QRP as a cross-setting quality measure that addresses the domain of incidence of major falls. Data collection would start on October 1, 2016. The reporting of data for this measure would affect the payment determination for FY 2018 and subsequent years. As described in more detail in section VIII.I.2. of this proposed rule, the proposed first data collection period is 3 months (October 1, 2016 to December 31, 2016), and the proposed subsequent data collection periods are 12-months in length and follow the calendar year (that is, January 1 to December 31). For the IRF setting, this measure would report the percentage of patients who experienced one or more falls with major injury during the IRF stay. This measure was developed by CMS and is NQF-endorsed for long-stay residents of nursing facilities.

Research indicates that fall-related injuries are the most common cause of accidental death in people aged 65 and older, responsible for approximately 41 percent of accidental deaths annually.[6] Rates increase to 70 percent of accidental deaths among individuals aged 75 and older.[7] In addition to death, falls can lead to fracture, soft tissue or head injury, fear of falling, anxiety, and depression.[8] It is estimated that 10 percent to 25 percent of nursing facility resident falls result in fractures and/or hospitalization.[9] For IRFs, a study of 5,062 patients found 367 patients (7.25 percent) had 438 falls. Among these 438 falls, 129 (29.5 percent of the falls) resulted in an injury, of which 25 (19 percent of falls) were serious.[10] A separate study of 754 stroke patients in an IRF reported 117 patients (15.5 percent) experienced 159 falls. Among these 159 falls, 13 (8 percent of falls) resulted in a minor injury, and 3 (2 percent of falls) resulted in a serious injury.[11]

Falls also represent a significant cost burden to the entire health care system, with injurious falls accounting for 6 percent of medical expenses among those age 65 and older.[12] In their 2006 work, *Sorensen et al.* estimate the costs associated with falls of varying severity among nursing home residents. Their work suggests that acute-care costs range from $979 for a typical case with a simple fracture to $14,716 for a typical case with multiple injuries.[13] A similar study of hospitalizations of nursing home residents due to serious fall-related injuries (intracranial bleed, hip fracture, other fracture) found an average cost of $23,723.[14]

According to *Morse,*[15] 78 percent of falls are anticipated physiological falls. Anticipated physiological falls are falls among individuals who scored high on a risk assessment scale, meaning their risk could have been identified in advance of the fall. To date, studies have identified a number of risk factors for falls.[16 17 18 19 20 21 22 23 24] The

[4] Schwartz, M., Ignaczak, M.K., Swinson Evans, T.M., Thaker, S., and Smith, L.: The Development of a Cross-Setting Pressure Ulcer Quality Measure: Summary Report on November 15, 2013, Technical Expert Panel Follow-Up Webinar. Centers for Medicare & Medicaid Services, January 2014. Available: *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Post-Acute-Care-Quality-Initiatives/Downloads/Development-of-a-Cross-Setting-Pressure-Ulcer-Quality-Measure-Summary-Report-on-November-15–2013-Technical-Expert-Pa.pdf.*

[5] Schwartz, M., Nguyen, K.H., Swinson Evans, T.M., Ignaczak, M.K., Thaker, S., and Bernard, S.L.: Development of a Cross-Setting Quality Measure for Pressure Ulcers: OY2 Information Gathering, Final Report. Centers for Medicare & Medicaid Services, November 2013. Available: *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Post-Acute-Care-Quality-Initiatives/Downloads/Development-of-a-Cross-Setting-Quality-Measure-for-Pressure-Ulcers-Information-Gathering-Final-Report.pdf.*

[6] Currie LM. Fall and injury prevention. Annu Rev Nurs Res. 2006;24:39–74.

[7] Fuller GF. Falls in the elderly. Am Fam Physician. Apr 1 2000;61(7):2159–2168, 2173–2154.

[8] Premier Inc. Causes of Falls. 2013. Available: *https://www.premierinc.com/quality-safety/toolsservices/safety/topics/falls/causes_of_falls.jsp.*

[9] Vu MQ, Weintraub N, Rubenstein LZ. Falls in the nursing home: are they preventable? J Am Med Dir Assoc. 2004 Nov-Dec; 5(6):401–6. Review.

[10] Frisina PG, Guellnitz R, Alverzo J. A time series analysis of falls and injury in the inpatient rehabilitation setting. Rehab Nurs. 2010; 35(4):141–146.

[11] Rabadi MH, Rabadi FM, Peterson M. An analysis of falls occurring in patients with stroke on an acute rehabilitation unit. Rehab Nurs. 2008; 33(3):104–109.

[12] Tinetti ME, Williams CS. The effect of falls and fall injuries on functioning in community-dwelling older persons. J Gerontol A Biol Sci Med Sci. 1998 Mar;53(2):M112–9.

[13] Sorensen SV, de Lissovoy G, Kunaprayoon D, Resnick B, Rupnow MF, Studenski S. A taxonomy and economic consequence of nursing home falls. Drugs Aging. 2006;23(3):251–62.

[14] Quigley PA, Campbell RR, Bulat T, Olney RL, Buerhaus P, Needleman J. Incidence and cost of serious fall-related injuries in nursing homes. Clin Nurs Res. Feb 2012;21(1):10–23.

[15] Morse, J. M. (2002) Enhancing the safety of hospitalization by reducing patient falls. Am J Infect Control 2002; 30(6): 376–80.

[16] Rothschild JM, Bates DW, Leape LL. Preventable medical injuries in older patients. Arch Intern Med. 2000 Oct 9; 160(18):2717–28.

[17] Morris JN, Moore T, Jones R, et al. Validation of long-term and post-acute care quality indicators.

Continued

identification of such risk factors suggests the potential for health care facilities to reduce and prevent the incidence of falls with injuries for their patients. In light of the evidence previously discussed, we are proposing to adopt an application of the measure Percent of Residents Experiencing One or More Falls with Major Injury (Long Stay) (NQF #0674) for the IRF QRP, with data collection starting on October 1, 2016 and affecting the payment determination for FY 2018 and subsequent years. As described in more detail in section VIII.I.2. of this proposed rule, the proposed first data collection period is 3 months (October 1, 2016 to December 31, 2016), and the proposed subsequent data collection periods are 12-months in length and follow the calendar year (that is, January 1 to December 31).

The IMPACT Act requires the specification of quality measures and resource use and other measures that are standardized and interoperable across PAC settings as well as the reporting of standardized patient assessment data and other necessary data specified by the Secretary. The Percent of Residents Experiencing One or More Falls with Major Injury (Long Stay) (NQF #0674) measure is NQF-endorsed for long-stay residents in nursing homes and has been successfully implemented in nursing facilities for long-stay residents. The NQF-endorsed measure has been in use as part of CMS' Nursing Home Quality Initiative since 2011. In addition, the measure is currently reported on CMS' Nursing Home Compare Web site at *http://www.medicare.gov/nursinghomecompare/search.html*. Further, the measure was adopted for use in the LTCH QRP in the FY 2014 IPPS/LTCH PPS final rule (78 FR 50874 through 50877). In the FY 2015 IPPS/LTCH PPS final rule (79 FR 50290), we revised the data collection period for this measure with data collection to begin starting April 1, 2016.

We reviewed the NQF's consensus endorsed measures and were unable to identify any NQF-endorsed cross-setting quality measures focused on falls with a major injury. We are unaware of any other cross-setting quality measures for falls with major injury that have been endorsed or adopted by another consensus organization. Therefore, we are proposing an application of the measure, the Percent of Residents Experiencing One or More Falls with Major Injury (Long Stay) (NQF #0674), under the Secretary's authority to select non-NQF-endorsed measures.

A TEP convened by our measure development contractor provided input on the measure specifications, including the feasibility and clinical appropriateness of implementing the measure across PAC settings, including the IRF setting. The TEP supported the implementation of this measure across PAC settings, including the IRF setting, and also supported our efforts to standardize this measure for cross-setting development. Additionally, the NQF-convened MAP met on February 9, 2015 and provided input to us on the measure. The MAP conditionally supported the use of an application of Percent of Residents Experiencing One or More Falls with Major Injury (Long Stay) (NQF #0674) in the IRF QRP as a cross-setting quality measure. More information about the MAP's recommendations for this measure is available at: *http://www.qualityforum.org/Setting_Priorities/Partnership/MAP_Final_Reports.aspx*.

More information on the Percent of Residents Experiencing One or More Falls with Major Injury (Long Stay), visit the NQF Web site: *http://www.qualityforum.org/QPS/0674*. Details regarding the changes made to modify the Percent of Residents Experiencing One or More Falls with Major Injury (Long Stay), and updated specifications are located at: *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting/IRF-Quality-Reporting-Program-Measures-Information.html*.

We propose that data for this quality measure would be collected using the IRF–PAI with submission through the QIES ASAP system. More information on IRF reporting using the QIES ASAP system is located at the Web site: *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment Instruments/NursingHomeQualityInits/NHQIMDS30Technical Information.html*.

Data collected through a revised IRF–PAI would be used to calculate this quality measure. Consistent with the IRF–PAI reporting requirements, the application of the Percent of Residents Experiencing One or More Falls with Major Injury (Long Stay) (NQF #0674), will apply to all Medicare patients discharged from IRFs. Data items in the revised IRF–PAI would include: J1800: Any Falls Since Admission, and J1900: Number of Falls Since Admission.

The calculation of the proposed application of the measure would be based on item J1900C: Number of Falls with Major Injury since Admission. The specifications and data elements for the application of the Percent of Residents Experiencing One or More Falls with Major Injury (Long Stay) (NQF #0674), are available at: *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting/IRF-Quality-Reporting-Program-Measures-Information-.html*. For more information on the proposed data collection and submission timeline for the proposed quality measure, refer to section VIII.I.2 of this proposed rule.

We invite public comment on our proposal to adopt an application of Percent of Residents Experiencing One or More Falls with Major Injury (Long Stay) (NQF #0674), with data collection beginning on October 1, 2016, for the IRF QRP for FY 2018 payment determination and subsequent years to fulfill the requirements in the IMPACT Act.

2. Quality Measure Addressing the Domain of Functional Status, Cognitive Function, and Changes in Function and Cognitive Function: Application of Percent of Long-Term Care Hospital Patients With an Admission and Discharge Functional Assessment and a Care Plan That Addresses Function (NQF #2631; under review)

Section 1899B(c)(1) of the Act directs the Secretary to specify quality measures on which PAC providers are required under the applicable reporting provisions to submit standardized patient assessment data and other necessary data specified by the Secretary with respect to five quality domains, one of which is functional status, cognitive function, and changes in function and cognitive function. To satisfy these requirements, we are proposing to specify and adopt an application of the quality measure

CMS Contract No: 500–95–0062/T.O. #4. Cambridge, MA: Abt Associates, Inc., June 2003.

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[22] Chen XL, Liu YH, Chan DK, Shen Q, Van Nguyen H. Chin Med J (Engl). Characteristics associated with falls among the elderly within aged care wards in a tertiary hospital: a retrospective. 2010 Jul;123(13):1668–72.

[23] Frisina PG, Guellnitz R, Alverzo J. A time series analysis of falls and injury in the inpatient rehabilitation setting. Rehabil Nurs. 2010 JulAug;35(4):141–6, 166.

[24] Lee JE, Stokic DS. Risk factors for falls during inpatient rehabilitant Am J Phys Med Rehabil. 2008 May;87(5):341–50; quiz 351, 422.

Percent of LTCH Patients with an Admission and Discharge Functional Assessment and a Care Plan that Addresses Function (NQF #2631; under review) in the IRF QRP as a cross-setting quality measure that addresses the domain of functional status, cognitive function, and changes in function and cognitive function. The reporting of data for this measure would affect the payment determination for FY 2018 and subsequent years. This quality measure reports the percent of patients with both an admission and a discharge functional assessment and a goal that addresses function.

The National Committee on Vital and Health Statistics, Subcommittee on Health,[25] noted: ''[i]information on functional status is becoming increasingly essential for fostering healthy people and a healthy population. Achieving optimal health and well-being for Americans requires an understanding across the life span of the effects of people's health conditions on their ability to do basic activities and participate in life situations, that is, their functional status.'' This statement is supported by research showing that patient functioning is associated with important patient outcomes such as discharge destination and length of stay in inpatient settings,[26] as well as the risk of nursing home placement and hospitalization of older adults living the in community.[27] Functioning is important to patients and their family members.[28] [29] [30]

The majority of patients and residents who receive PAC services, such as care provided by SNFs, HHAs, IRFs and LTCHs, have functional limitations, and many of these patients are at risk for further decline in function due to limited mobility and ambulation.[31] The patient populations treated by SNFs, HHAs, IRFs and LTCHs vary in terms of their functional abilities at the time of the PAC admission and their goals of care. For IRF patients and many SNF residents, treatment goals may include fostering the patient's ability to manage his or her daily activities so that the patient can complete self-care and/or mobility activities as independently as possible, and if feasible, return to a safe, active, and productive life in a community-based setting. For HHA patients, achieving independence within the home environment and promoting community mobility may be the goal of care. For other HHA patients, the goal of care may be to slow the rate of functional decline to allow the person to remain at home and avoid institutionalization.[32] Lastly, in addition to having complex medical care needs for an extended period of time, LTCH patients often have limitations in functioning because of the nature of their conditions, as well as deconditioning due to prolonged bed rest and treatment requirements (for example, ventilator use). The clinical practice guideline *Assessment of Physical Function* [33] recommends that clinicians should document functional status at baseline and over time to validate capacity, decline, or progress. Therefore, assessment of functional status at admission and discharge and establishing a functional goal for discharge as part of the care plan (that is, treatment plan) is an important aspect of patient care in all of these PAC providers.

Given the variation in patient and resident populations across the PAC providers, the functional activities that are typically assessed by clinicians for each type of PAC provider may vary. For example, the activity of rolling left and right in bed is an example of a functional activity that may be most relevant for low-functioning patients or residents who are chronically critically ill. However, certain functional activities, such as eating, oral hygiene, lying to sitting on the side of the bed, toilet transfers, and walking or wheelchair mobility, are important activities for patients and residents in each PAC provider.

Although functional assessment data are currently collected in SNFs, HHAs, IRFs and LTCHs, this data collection has employed different assessment instruments, scales, and item definitions. The data collected cover similar topics, but are not standardized across PAC settings. Further, the different sets of functional assessment items are coupled with different rating scales, making communication about patient functioning challenging when patients transition from one type of provider to another. Collection of standardized functional assessment data across SNFs, HHAs, IRFs and LTCHs, using common data items, would establish a common language for patient functioning, which may facilitate communication and care coordination as patients transition from one type of provider to another. The collection of standardized functional status data may also help improve patient or resident functioning during an episode of care by ensuring that basic daily activities are assessed at the start and end of each episode of care with the aim of determining whether at least one functional goal is established.

The functional assessment items included in the proposed functional status quality measure were originally developed and tested as part of the Post-Acute Care Payment Reform Demonstration version of the CARE Item Set, which was designed to standardize assessment of patients' status across acute and post-acute providers, including SNFs, HHAs, IRFs and LTCHs. The functional status items on the CARE Item Set are daily activities that clinicians typically assess at the time of admission and/or discharge to determine patients' or residents' needs, evaluate patient or resident progress and prepare patients or residents and families for a transition to home or to another provider.

The development of the CARE Item Set and a description and rationale for each item is described in a report entitled ''The Development and Testing of the Continuity Assessment Record and Evaluation (CARE) Item Set: Final Report on the Development of the CARE Item Set: Volume 1 of 3.'' [34] Reliability and validity testing were conducted as part of CMS' Post-Acute Care Payment Reform Demonstration, and we concluded that the functional status items have acceptable reliability and

[25] Subcommittee on Health National Committee on Vital and Health Statistics, ''Classifying and Reporting Functional Status'' (2001).

[26] Reistetter TA, Graham JE, Granger CV, Deutsch A, Ottenbacher KJ. Utility of Functional Status for Classifying Community Versus Institutional Discharges after Inpatient Rehabilitation for Stroke. *Archives of Physical Medicine and Rehabilitation,* 2010; 91:345–350.

[27] Miller EA, Weissert WG. Predicting Elderly People's Risk for Nursing Home Placement, Hospitalization, Functional Impairment, and Mortality: A Synthesis. Medical Care Research and Review, 57; 3: 259–297.

[28] Kurz, A. E., Saint-Louis, N., Burke, J. P., & Stineman, M. G. (2008). Exploring the personal reality of disability and recovery: a tool for empowering the rehabilitation process. *Qual Health Res, 18*(1), 90–105.

[29] Kramer, A. M. (1997). Rehabilitation care and outcomes from the patient's perspective. *Med Care, 35*(6 Suppl), JS48–57.

[30] Stineman, M. G., Rist, P. M., Kurichi, J. E., & Maislin, G. (2009). Disability meanings according to patients and clinicians: imagined recovery choice pathways. *Quality of Life Research, 18*(3), 389–398.

[31] Kortebein P, Ferrando A, Lombebeida J, Wolfe R, Evans WJ. Effect of 10 days of bed rest on skeletal muscle in health adults. JAMA; 297(16):1772–4.

[32] Ellenbecker CH, Samia L, Cushman MJ, Alster K. Patient safety and quality in home health care. Patient Safety and Quality: An Evidence-Based Handbook for Nurses. Vol 1.

[33] Kresevic DM. Assessment of physical function. In: Boltz M, Capezuti E, Fulmer T, Zwicker D, editor(s). Evidence-based geriatric nursing protocols for best practice. 4th ed. New York (NY): Springer Publishing Company; 2012. p. 89–103.

[34] Barbara Gage et al., ''The Development and Testing of the Continuity Assessment Record and Evaluation (CARE) Item Set: Final Report on the Development of the CARE Item Set'' (RTI International, 2012).

validity. A description of the testing methodology and results are available in several reports, including the report entitled ''The Development and Testing of the Continuity Assessment Record And Evaluation (CARE) Item Set: Final Report On Reliability Testing: Volume 2 of 3'' [35] and the report entitled ''The Development and Testing of The Continuity Assessment Record And Evaluation (CARE) Item Set: Final Report on Care Item Set and Current Assessment Comparisons: Volume 3 of 3.'' [36] The reports are available on CMS' Post-Acute Care Quality Initiatives Web page at: *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Post-Acute-Care-Quality-Initiatives/CARE-Item-Set-and-B-CARE.html*.

The cross-setting function quality measure we are proposing to adopt for the FY 2018 payment determination and subsequent years is a process measure that is an application of the quality measure Percent of LTCH Patients with an Admission and Discharge Functional Assessment and a Care Plan that Addresses Function (NQF #2631; under review). This quality measure was developed by the CMS. It reports the percent of patients with both an admission and a discharge functional assessment and a treatment goal that addresses function. The treatment goal provides documentation that a care plan with a goal has been established for the patient.

This process measure requires the collection of admission and discharge functional status data using standardized clinical assessment items, or data elements, that assess specific functional activities, that is, self-care, mobility activities. The self-care and mobility function activities are coded using a 6-level rating scale that indicates the patient's level of independence with the activity; higher scores indicate more independence. For this quality measure, documentation of a goal for one of the function items reflects that the patient's care plan addresses function. The function goal is recorded at admission for at least one of the standardized self-care or mobility function items using the 6-level rating scale.

To the extent that a patient has an incomplete stay (for example, for the purpose of being admitted to an acute care facility), collection of discharge functional status data might not be feasible. Therefore, for patients with incomplete stays, admission functional status data and at least one treatment goal would be required, discharge functional status data would not be required to be reported.

A TEP convened by our measure development contractor provided input on the technical specifications of this quality measure, including the feasibility of implementing the measure across PAC settings, including the IRF setting. The TEP supported the implementation of this measure across PAC providers and also supported our efforts to standardize this measure for cross-setting use. Additionally, the MAP met on February 9, 2015 and provided input to us on the measure. The MAP conditionally supported the specification of an application of Percent of LTCH Patients With an Admission and Discharge Functional Assessment and a Care Plan That Addresses Function (NQF #2631; under review) for use in the IRF QRP as a cross-setting measure. MAP conditionally supported this measure pending NQF-endorsement and resolution of concerns about the use of two different functional status scales for quality reporting and payment purposes. MAP reiterated its support for adding measures addressing function, noting the group's special interest in this PAC/LTC core concept. More information about the MAPs recommendations for this measure is available at: *http://www.qualityforum.org/Setting_Priorities/Partnership/MAP_Final_Reports.aspx.*

This quality measure was developed by CMS. The specifications are available for review at the IRF QRP Web site: *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting/IRF-Quality-Reporting-Program-Measures-Information-.html*.

We reviewed the NQF's consensus endorsed measures and were unable to identify any NQF-endorsed cross-setting quality measures focused on assessment of function for PAC patients. We are also unaware of any other cross-setting quality measures for functional assessment that have been endorsed or adopted by another consensus organization. Therefore, we are proposing to specify and adopt this functional assessment measure for use in the IRF QRP for the FY 2018 payment determination and subsequent years under the Secretary's authority to select non-NQF-endorsed measures. As described in more detail in section VIII.I.2, of this proposed rule, the proposed first data collection period is 3 months (October 1, 2016 to December 31, 2016), and the proposed subsequent data collection periods are 12-months in length and follow the calendar year (that is, January 1 to December 31).

We are proposing that data for this proposed quality measure be collected using the IRF–PAI, with submission through the QIES ASAP system. For more information on IRF QRP reporting through the QIES ASAP system, we refer readers to the CMS Web site at:*http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/NursingHomeQualityInits/NHQIMDS30TechnicalInformation.html*.

The measure calculation algorithm is: (1) For each IRF stay, the records of Medicare patients discharged during the 12-month target time period are identified and counted; this count is the denominator; (2) the records of Medicare patients with complete stays are identified, and the number of these patient stays with complete admission functional assessment data and at least one self-care or mobility activity goal and complete discharge functional assessment data is counted; (3) the records of Medicare patients with incomplete stays are identified, and the number of these patient records with complete admission functional status data and at least one self-care or mobility goal is counted; (4) the counts from step 2 (complete IRF stays) and step 3 (incomplete IRF stays) are summed; the sum is the numerator count; and (5) the numerator count is divided by the denominator count to calculate this quality measure.

For purposes of assessment data collection, we propose to add a new section into the IRF–PAI. The new proposed section will include new functional status items that will be used to calculate the application of the Percent of LTCH Patients with an Admission and Discharge Functional Assessment and a Care Plan that Addresses Function (NQF #2631; under review) quality measure should this proposed measure be adopted. The items to be added to the IRF–PAI, which assess specific self-care and mobility activities, would be based on functional items included in the Post-Acute Care Payment Reform Demonstration version of the CARE Item Set.

The specifications and data elements for the quality measure are available at: *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting/IRF-Quality-Reporting-Program-Measures-Information-.html*.

The proposed function items to be included within the IRF–PAI do not duplicate existing items currently used for data collection within the IRF–PAI. While many of the items to be included have labels that are similar to existing items on the IRF–PAI, there are several

[35] Ibid.

[36] Ibid.

key differences between the 2 assessment item sets that may result in variation in the patient assessment results. Key differences include: (1) The data collection and associated data collection instructions; (2) the rating scales used to score a patient's level of independence; and (3) the item definitions. A description of these differences is provided with the measure specifications on CMS Web site at: *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting/IRF-Quality-Reporting-Program-Measures-Information-.html*.

This measure is calculated at two points in time, at admission and discharge (see Proposed Form, Manner, and Timing of Quality Data Submission section of the rule). The items would assess specific self-care and mobility activities, and would be based on functional items included in the Post-Acute Care Payment Reform Demonstration version of the CARE Item Set. The items have been developed and tested for reliability and validity in SNFs, HHAs, IRFs, and LTCHs. More information pertaining to item testing is available on our Post-Acute Care Quality Initiatives Web page at: *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Post-Acute-Care-Quality-Initiatives/CARE-Item-Set-and-B-CARE.html*.

For more information on the proposed data collection and submission timeline for the proposed quality measure refer to section VIII.I.2, of this proposed rule. Additional information regarding the items to be added to the IRF–PAI may be found on CMS Web site at: *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting/IRF-Quality-Reporting-Program-Measures-Information-.html*.

Lastly, in alignment with the requirements of the IMPACT Act to develop quality measures and standardize data for comparative purposes, we believe that evaluating outcomes across the post-acute settings using standardized data is an important priority. Therefore, in addition to proposing a process-based measure for the domain in the IMPACT Act of ''Functional status, cognitive function, and changes in function and cognitive function'', which is included in this year's proposed rule, we also intend to develop outcomes-based quality measures, including functional status and other quality outcome measures to further satisfy this domain. These measures will be proposed in future rulemaking to assess functional change for each care setting as well as across care settings.

We invite public comments on our proposal to adopt the application of the quality measure Percent of LTCH Patients with an Admission and Discharge Functional Assessment and a Care Plan that Addresses Function (NQF #2631; under review) for the IRF QRP, with data collection starting on October 1, 2016, for the FY 2018 payment determination and subsequent years.

3. IRF Functional Outcome Measure: Change in Self-Care Score for Medical Rehabilitation Patients (NQF #2633; Under Review)

The third quality measure that we are proposing for the FY 2018 payment determination and subsequent years is an outcome measure entitled IRF Functional Outcome Measure: Change in Self-Care Score for Medical Rehabilitation Patients (NQF #2633, under review). This quality measure estimates the risk-adjusted mean change in self-care score between admission and discharge among IRF patients. This measure is being proposed under the authority of section 1886(j)(7)(C) of the Act, and is currently under review by the NQF. A summary of the measure specifications can be accessed on the NQF Web site: *http://www.qualityforum.org/qps/2633*. Detailed specifications for this quality measure can be accessed at: *http://www.qualityforum.org/ProjectTemplateDownload.aspx?SubmissionID=2633*.

IRFs are designed to provide intensive rehabilitation services to patients. Patients seeking care in IRFs are those whose illness, injury, or condition has resulted in a loss of function, and for whom rehabilitative care is expected to help regain that function. Examples of conditions treated in IRFs include stroke, spinal cord injury, hip fracture, brain injury, neurological disorders, and other diagnoses characterized by loss of function.

Given that the primary goal of rehabilitation is improvement in functional status, IRF clinicians have traditionally assessed and documented patients' functional status at admission and discharge to evaluate the effectiveness of the rehabilitation care provided to individual patients, as well as the effectiveness of the rehabilitation unit or hospital overall. Differences in IRF patients' functional outcomes have been found by geographic region, insurance type, and race/ethnicity after adjusting for key patient demographic characteristics and admission clinical status. Therefore, we believe there is an opportunity for improvement in this area. For example, Reistetter [37] examined discharge motor function and functional gain among IRF patients with stroke and found statistically significant differences in functional outcomes by U.S. geographic region, by insurance type, and race/ethnicity group after risk adjustment. O'Brien and colleagues [38] found differences in functional outcomes across race/ethnicity groups in their analysis of Medicare assessment data for patients with stroke after risk adjustment. O'Brien and colleagues [39] also noted that the overall IRF length of stay decreased 1.8 days between 2002 and 2007 and that shorter IRF stays were significantly associated with lower functioning at discharge.

The functional assessment items included in this quality measure were originally developed and tested as part of the Post-Acute Care Payment Reform Demonstration version of the CARE Tool,[40] which was designed to standardize assessment of patients' status across acute and post-acute providers, including IRFs, SNFs, HHAs and LTCHs. The functional status items on the CARE Tool are daily activities that clinicians typically assess at the time of admission and/or discharge to determine patients' needs, evaluate patient progress and prepare patients and families for a transition to home or to another provider.

This outcome measure requires the collection of admission and discharge functional status data by trained clinicians using standardized clinical assessment items, or data elements that assess specific functional self-care activities (for example, eating, oral hygiene, toileting hygiene). The self-care function items are coded using a 6-level rating scale that indicates the patient's level of independence with the activity; higher scores indicate more independence. In addition, this measure requires the collection of risk factors data, such as patient functioning prior to the current reason for admission, bladder continence, communication ability and cognitive function, at the time of admission.

[37] Reistetter TA, Karmarkar AM, Graham JE, et al. Regional variation in stroke rehabilitation outcomes. *Arch Phys Med Rehabil*.95(1):29–38, Jan. 2014.

[38] O'Brien SR, Xue Y, Ingersoll G, et al. Shorter length of stay is associated with worse functional outcomes for medicare beneficiaries with stroke. *Physical Therapy*. 93(12):1592–1602, Dec. 2013.

[39] O'Brien SR, Xue Y, Ingersoll G, et al. Shorter length of stay is associated with worse functional outcomes for medicare beneficiaries with stroke. *Physical Therapy*. 93(12):1592–1602, Dec. 2013.

[40] Barbara Gage et al., ''The Development and Testing of the Continuity Assessment Record and Evaluation (CARE) Item Set: Final Report on the Development of the CARE Item Set'' (RTI International, 2012).

This self-care quality measure will also standardize the collection of functional status data, which can improve communication when patients are transferred between providers. Most IRF patients receive care in an acute care hospital prior to the IRF stay, and many IRF patients receive care from another provider after the IRF stay. Use of standardized clinical data to describe a patient´s status across providers can facilitate communication across providers. Rehabilitation programs have traditionally conceptualized functional status in terms of the need for assistance from another person. This is the conceptual basis for the IRF–PAI/FIM®* instrument (used in IRFs), the MDS function items (used in nursing homes), and the Outcome and Assessment Information Set (OASIS) function items (used in home health). However, the functional status items on the IRF–PAI, MDS and OASIS are different; the items, item definitions when items are similar and rating scales are different. In a patient-centered health care system, there is a need for standardized terminology and assessment items because patients often receive care from more than 1 provider. The use of standardized items and terminology facilitates clinicians speaking a common language that can be understood across clinical disciplines and practice settings.

We released draft specifications for the function quality measures, and requested public comment between February 21 and March 14, 2014. We received 40 responses from stakeholders with comments and suggestions during the public comment period and have updated the specifications based on these comments and suggestions. This quality measure was submitted to NQF November 9, 2014 and is currently under review by NQF. A summary of the measure specifications can be accessed at *http://www.qualityforum.org/qps/2633*. The detailed measure specifications are available for review at the NQF Web site: *http://www.qualityforum.org/ProjectTemplateDownload.aspx?SubmissionID=2633*.

Based on the evidence previously discussed, we are proposing to adopt the quality measure entitled IRF Functional Outcome Measure: Change in Self-care Score for Medical Rehabilitation Patients (NQF #2633; under review), for the IRF QRP for the FY 2018 payment determination and subsequent years. As described in more detail in section VIII.I.2. of this proposed rule, the proposed first data collection period is 3 months (October 1, 2016 to December 31, 2016) for the FY 2018 payment determination, and the proposed subsequent data collection periods are 12-months in length and follow the calendar year (that is, January 1 to December 31).

The list of measures under consideration for the IRF QRP, including this quality measure, was released to the public on December 1, 2014, and early comments were submitted between December 1 and December 5, 2014. The MAP met on December 12, 2014, sought public comment on this measure from December 23, 2014 to January 13, 2015, and met on January 26, 2015. The NQF provided the MAP's input to us as required under section 1890A(a)(3) of the Act in the final report, MAP 2015 Considerations for Selection of Measures for Federal Programs: Post-Acute/Long-Term Care, which is available at *http://www.qualityforum.org/Setting_Priorities/Partnership/MAP_Final_Reports.aspx*. The MAP conditionally supported this measure. Refer to section VIII.B. of this proposed rule for more information on the MAP.

In section 1886(m)(5)(D)(ii) of the Act, the exception authority provides that in the case of a specified area or medical topic determined appropriate by the Secretary for which a feasible and practical measure has not been endorsed by the entity with a contract under section 1890(a) of the Act, the Secretary may specify a measure that is not so endorsed as long as due consideration is given to measures that have been endorsed or adopted by a consensus organization identified by the Secretary. We reviewed the NQF's consensus endorsed measures and were unable to identify any NQF-endorsed quality measures focused on assessment of functional status for patients in the IRF setting. There are related measures, but they are not endorsed for IRFs and several focus on 1 condition (for example, knee or shoulder impairment). We are not aware a of any other quality measures for functional assessment that have been endorsed or adopted by another consensus organization for the IRF setting. Therefore, we are proposing to adopt this measure, IRF Functional Outcome Measure: Change in Self-Care Score for Medical Rehabilitation Patients (NQF #2633; under review), for use in the IRF QRP for the FY 2018 payment determination and subsequent years under the Secretary's authority to select non-NQF-endorsed measures.

The specifications and data elements for the quality measure are available at *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting/IRF-Quality-Reporting-Program-Measures-Information-.html*. We are proposing that data for the proposed quality measure be collected using the IRF–PAI, with the submission through the QIES ASAP system. For more information on IRF QRP reporting through the QIES ASAP system, refer to CMS Web site at: *http://cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting/index.html*.

We propose to revise the IRF–PAI to include new items that assess functional status and the risk factor items, should this proposed measure be adopted. The function items, which assess specific self-care functional activities, would be based on functional items included in the Post-Acute Care Payment Reform Demonstration version of the CARE Item Set.

We invite public comments on our proposal to adopt the quality measure entitled IRF Functional Outcome Measure: Change in Self-care Score for Medical Rehabilitation Patients (NQF #2633, under review) for the IRF QRP, with data collection starting on October 1, 2016, for the FY 2018 payment determination and subsequent years. Refer to section VIII.I.2. of this proposed rule for more information on the proposed data collection and submission timeline for this proposed quality measure.

4. IRF Functional Outcome Measure: Change in Mobility Score for Medical Rehabilitation Patients (NQF #2634; Under Review)

The fourth quality measure we are proposing for the FY 2018 payment determination and subsequent years is an outcome quality measure entitled IRF Functional Outcome Measure: Change in Mobility Score for Medical Rehabilitation Patients (NQF #2634; under review). This quality measure estimates the risk-adjusted mean change in mobility score between admission and discharge among IRF patients. This measure is being proposed under the authority of section 1886(j)(7)(C) of the Act, and is currently under review by NQF. A summary of this quality measure can be accessed on the NQF Web site: *http://www.qualityforum.org/qps/2634*. More detailed specifications for this quality measure can be accessed at: *http://www.qualityforum.org/ProjectTemplateDownload.aspx?SubmissionID=2634*.

This outcome measure requires the collection of admission and discharge functional status data by trained clinicians using standardized clinical assessment items, or data elements that assess specific functional mobility activities (for example, toilet transfer

and walking). The mobility function items are coded using a 6-level rating scale that indicates the patient's level of independence with the activity; higher scores indicate more independence. In addition, this measure requires the collection of risk factors data, such as patient functioning prior to the current reason for admission, history of falls, bladder continence, communication ability and cognitive function, at the time of admission.

As noted in the previous section, IRFs provide intensive rehabilitation services to patients with a goal of improving patient functioning.

We released draft specifications for the function quality measures, and requested public comment between February 21 and March 14, 2014. We received 40 responses from stakeholders with comments and suggestions during the public comment period, and have updated the measures specifications based on these comments and suggestions. The quality measure was developed by CMS and was submitted for endorsement review to NQF in November 2014. A summary of the quality measure can be accessed on the NQF Web site: *http://www.qualityforum.org/qps/2634*. More detailed specifications for this quality measure can be accessed at: *http://www.qualityforum.org/ProjectTemplateDownload.aspx?SubmissionID=2634*

Based on the evidence previously discussed, we are proposing to adopt for the IRF QRP for the FY 2018 payment determination and subsequent years the quality measure entitled IRF Functional Outcome Measure: Change in Mobility Score for Medical Rehabilitation Patients (NQF #2634; under review). As described in more detail in section VIII.I.2. of this proposed rule, the proposed first data collection period is 3 months (October 1, 2016 to December 31, 2016), and the proposed subsequent data collection periods are 12-months in length and follow the calendar year (that is, January 1 to December 31).

The list of measures under consideration for the IRF QRP, including this quality measure, was released to the public on December 1, 2014, and early comments were submitted between December 1 and December 5, 2014. The MAP met on December 9 2014, sought public comment on this measure from December 23, 2014 to January 13, 2015, and met on January 26, 2015. They provided input to us as required under section 1890A(a)(3) of the Act in the final report, MAP 2015 Considerations for Selection of Measures for Federal Programs: Post-Acute/Long-Term Care, which is available at *http://www.qualityforum.org/Setting_Priorities/Partnership/MAP_Final_Reports.aspx*. The MAP conditionally supported this measure. Refer to section VIII.B. of this proposed rule for more information on the MAP.

We reviewed the NQF's consensus endorsed measures and were unable to identify any NQF-endorsed quality measures focused on assessment of functional status for patients in the IRF setting. There are related measures—for example, Improvement in ambulation/locomotion (NQF #0167), Improvement in bed transferring (NQF #0175), Functional status change for patients with Knee impairments (NQF #0422), Functional status change for patients with Hip impairments (NQF #423)—but they are not endorsed for IRFs, and several focus on 1 condition (for example, knee or hip impairment). We are not aware of any other quality measures for functional assessment that have been endorsed or adopted by another consensus organization for the IRF setting. Therefore, we are proposing to adopt this measure, IRF Functional Outcome Measure: Change in Mobility Score for Medical Rehabilitation Patients (NQF #2634; under review), for use in the IRF QRP for the FY 2018 payment determination and subsequent years under the Secretary's authority to select non-NQF-endorsed measures.

The specifications and data elements for the quality measure are available at *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting/IRF-Quality-Reporting-Program-Measures-Information-.html*.

We are proposing that data for the proposed quality measure be collected using the IRF–PAI, with submission through the QIES ASAP system. For more information on IRF QRP reporting through the QIES ASAP system, refer to CMS Web site at: *http://cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting/index.html*.

We invite public comments on our proposal to adopt the quality measure entitled IRF Functional Outcome Measure: Change in Mobility Score for Medical Rehabilitation Patients (NQF #2634; under review) for the IRF QRP, with data collection starting on October 1, 2016, for the FY 2018 payment determination and subsequent years. Refer to section VIII.I.2.of this proposed rule for more information on the proposed data collection and submission timeline for this proposed quality measure.

5. IRF Functional Outcome Measure: Discharge Self-Care Score for Medical Rehabilitation Patients (NQF #2635; Under Review)

The fifth quality measure we are proposing for the FY 2018 payment determination and subsequent years is an outcome quality measure entitled: IRF Functional Outcome Measure: Discharge Self-Care Score for Medical Rehabilitation Patients (NQF #2635, under review). This quality measure estimates the percentage of IRF patients who meet or exceed an expected discharge self-care score. This measure is being proposed under the authority of section 1886(j)(7)(C) of the Act, and is currently under review by NQF. A summary of this quality measure can be accessed on the NQF Web site: *http://www.qualityforum.org/qps/2635*. More detailed specifications for the quality measure can be accessed at: *http://www.qualityforum.org/ProjectTemplateDownload.aspx?SubmissionID=2635*.

This outcome measure requires the collection of admission and discharge functional status data by trained clinicians using standardized clinical assessment items, or data elements that assess specific functional mobility activities (that is, eating, oral hygiene, and dressing). The self-care function items are coded using a 6-level rating scale that indicates the patient's level of independence with the activity; higher scores indicate more independence. In addition, this measure requires the collection of risk factors data, such as patient functioning prior to the current reason for admission, bladder continence, communication ability and cognitive function, at the time of admission. The data collection required for this measure is the same data required to the measure: IRF Functional Outcome Measure: Change in Self-Care Score for Medical Rehabilitation Patients (NQF #2635; under review).

As noted in the previous section, IRFs provide intensive rehabilitation services to patients with a goal of improving patient functioning.

We released draft specifications for the function quality measures, and requested public comment between February 21 and March 14, 2014. We received 40 responses from stakeholders with comments and suggestions during the public comment period, and have updated all four IRF quality measures specifications based on these comments and suggestions. This quality measure was submitted to the NQF on November 9, 2014 and is currently under review by NQF. A summary of this quality measure can be accessed on the NQF Web site: *http://www.qualityforum.org/*

*qps/2634*. More detailed specifications for this quality measure can be accessed at: *http://www.qualityforum.org/ProjectTemplateDownload.aspx?SubmissionID=2634.*

Based on the evidence previously discussed, we are proposing to adopt for the IRF QRP for the FY 2018 payment determination and subsequent years the quality measure entitled IRF Functional Outcome Measure: Discharge Self-Care Score for Medical Rehabilitation Patients (NQF #2635; under review).

The list of measures under consideration for the IRF QRP, including this quality measure, was released to the public on December 1, 2014, and early comments were submitted between December 1 and December 5, 2014. The MAP met on December 9, 2014, sought public comment on this measure from December 23, 2014 to January 13, 2015, and met on January 26, 2015. They provided input to us as required under section 1890A(a)(3) of the Act in the final report, MAP 2015 Considerations for Selection of Measures for Federal Programs: Post-Acute/Long-Term Care, which is available at *http://www.qualityforum.org/Setting_Priorities/Partnership/MAP_Final_Reports.aspx.* The MAP conditionally supported this measure. Refer to section VIII.B. of this proposed rule for more information on the MAP.

We reviewed the NQF's consensus endorsed measures and were unable to identify any NQF-endorsed quality measures focused on assessment of functional status for patients in the IRF setting. There are related measures, but they are not endorsed for IRFs and several focus on one condition (for example, knee or shoulder impairment). We are not aware of any other quality measures for functional outcomes that have been endorsed or adopted by another consensus organization for the IRF setting. Therefore, we are proposing to adopt this measure, IRF Functional Outcome Measure: Discharge Self-Care Score for Medical Rehabilitation Patients (NQF #2635; under review), for use in the IRF QRP for the FY 2018 payment determination and subsequent years under the Secretary's authority to select non-NQF-endorsed measures. As described in more detail in section VIII.I.2 of this proposed rule, the proposed first data collection period is 3 months (October 1, 2016 to December 31, 2016), and the proposed subsequent data collection periods are 12-months in length and follow the calendar year (that is, January 1 to December 31).

The specifications and data elements for the quality measure are available at *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting/IRF-Quality-Reporting-Program-Measures-Information-.html.*

We are proposing that data for the proposed quality measure be collected using the IRF–PAI, with submission through the QIES ASAP system. For more information on IRF QRP reporting through the QIES ASAP system, refer to CMS Web site at: *http://cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting/index.html.*

We invite public comments on our proposal to adopt the quality measure entitled IRF Functional Outcome Measure: Discharge Self-Care Score for Medical Rehabilitation Patients (NQF #2635, under review) for the IRF QRP, with data collection starting on October 1, 2016, for the FY 2018 payment determination and subsequent years. For more information on the proposed data collection and submission timeline for this proposed quality measure, refer to section VIII.I.2, of this proposed rule.

6. IRF Functional Outcome Measure: Discharge Mobility Score for Medical Rehabilitation Patients (NQF #2636; Under Review)

The sixth quality measure we are proposing for the FY 2016 implementation and the FY 2018 payment determination and subsequent years is an outcome quality measure entitled: IRF Functional Outcome Measure: Discharge Mobility Score for Medical Rehabilitation Patients (NQF #2636; under review). This quality measure estimates the percentage of IRF patients who meet or exceed an expected discharge mobility score. This measure is being proposed under the authority of section 1886(j)(7)(C) of the Act, and is currently under review by NQF. A summary of this quality measure can be accessed on the NQF Web site: *http://www.qualityforum.org/qps/2636*. More detailed specifications for this quality measure can be accessed at: *http://www.qualityforum.org/ProjectTemplateDownload.aspx?SubmissionID=2636.*

This outcome measure requires the collection of admission and discharge functional status data by trained clinicians using standardized clinical assessment items, or data elements that assess specific functional mobility activities (that is, bed mobility and walking). The mobility function items are coded using a 6-level rating scale that indicates the patient's level of independence with the activity; higher scores indicate more independence. In addition, this measure requires the collection of risk factors data, such as patient functioning prior to the current reason for admission, history of falls, bladder continence, communication ability and cognitive function, at the time of admission. Note that the data collection required for this measure is the same data required to the measure: IRF Functional Outcome Measure: Mobility in Self-Care Score for Medical Rehabilitation Patients (NQF #2634; under review).

As noted in the previous section, IRFs provide intensive rehabilitation services to patients with a goal of improving patient functioning.

We released draft specifications for the function quality measures, and requested public comment between February 21 and March 14, 2014. We received 40 responses from stakeholders with comments and suggestions during the public comment period, and have updated all 4 IRF quality measures specifications based on these comments and suggestions. This quality measure was submitted to the NQF on November 9, 2014 and is currently under review by NQF. A summary of this quality measure can be accessed on the NQF Web site: *http://www.qualityforum.org/qps/2634*. More detailed specifications for this quality measure can be accessed at: *http://www.qualityforum.org/ProjectTemplateDownload.aspx?SubmissionID=2634.*

Based on the evidence discussed earlier, we are proposing to adopt for the IRF QRP for the FY 2018 payment determination and subsequent years the quality measure entitled IRF Functional Outcome Measure: Discharge Mobility Score for Medical Rehabilitation Patients (NQF #2636; under review). As described in more detail in section VIII.I.2. of this proposed rule, the proposed first data collection period is 3 months (October 1, 2016 to December 31, 2016), and the proposed subsequent data collection periods are 12-months in length and follow the calendar year (that is, January 1 to December 31).

The list of measures under consideration for the IRF QRP, including this quality measure, was released to the public on December 1, 2014, and early comments were submitted between December 1 and December 5, 2014. The MAP met on December 9, 2014, sought public comment on this measure from December 23, 2014 to January 13, 2015, and met on January 26, 2015. They provided input to us as required under section 1890A(a)(3) of the Act in the final report, MAP 2015 Considerations for Selection of Measures for Federal Programs: Post-Acute/Long-Term Care, which is available at *http://www.qualityforum.org/Setting_Priorities/*

*Partnership/MAP_Final_Reports.aspx*. The MAP conditionally supported this measure. Refer to section VIII.B. of this proposed rule for more information on the MAP.

We reviewed the NQF's consensus endorsed measures and were unable to identify any NQF-endorsed quality measures focused on assessment of functional status for patients in the IRF setting. There are related measures, but they are not endorsed for IRFs and several focus on one condition (for example, knee or shoulder impairment). We are not aware of any other quality measures for functional outcomes that have been endorsed or adopted by another consensus organization for the IRF setting. Therefore, we are proposing to adopt this measure, IRF Functional Outcome Measure: Discharge Mobility Score for Medical Rehabilitation Patients (NQF #2636; under review), for use in the IRF QRP for the FY 2018 payment determination and subsequent years under the Secretary's authority to select non-NQF-endorsed measures.

We are proposing that data for this quality measure be collected using the IRF–PAI, with submission through the QIES ASAP system. For more information on IRF QRP reporting through the QIES ASAP system, refer to CMS Web site at: *http://cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting/index.html*.

We invite public comments on our proposal to adopt the quality measure entitled IRF Functional Outcome Measure: Discharge Mobility Score for Medical Rehabilitation Patients (NQF #2636; under review) for the IRF QRP, with data collection starting on October 1, 2016, for the FY 2018 payment determination and subsequent years. Refer to section IX.C.9.c. of this proposed rule for more information on the proposed data collection and submission timeline for this quality measure.

TABLE 19—SUMMARY OF IRF QRP MEASURES AFFECTING THE FY 2017 AND FY 2018 ADJUSTMENTS TO THE IRF PPS ANNUAL INCREASE FACTOR AND SUBSEQUENT YEAR INCREASE FACTORS

| |
|---|
| Continued IRF QRP Measures Affecting the FY 2017 Adjustments to the IRF PPS Annual Increase Factor and Subsequent Year Increase Factors:<br>• NQF #0138: National Health Safety Network (NHSN) Catheter-Associated Urinary Tract Infection (CAUTI) Outcome Measure +<br>• NQF #0431: Influenza Vaccination Coverage among Healthcare Personnel +<br>• NQF #0680: Percent of Residents or Patients Who Were Assessed and Appropriately Given the Seasonal Influenza Vaccine (Short-Stay)<br>• NQF #1716: National Healthcare Safety Network (NHSN) Facility-Wide Inpatient Hospital-Onset Methicillin-Resistant *Staphylococcus aureus* (MRSA) Bacteremia Outcome Measure +<br>• NQF #1717: National Healthcare Safety Network (NHSN) Facility-Wide Inpatient Hospital-Onset *Clostridium difficile* Infection (CDI) Outcome Measure +<br>• NQF #2502: All-Cause Unplanned Readmission Measure for 30 Days Post-Discharge from IRFs * ^<br>• NQF #0678: Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (Short-Stay) * |
| Proposed New and Re-Proposed IRF QRP Measures Affecting FY 2018 Adjustments to the IRF PPS Annual Increase Factor and Subsequent Year Increase Factors:<br>• NQF #2502: All-Cause Unplanned Readmission Measure for 30 Days Post-Discharge from IRFs * ^<br>• NQF #0678: Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (Short-Stay) * (data element source: Pressure ulcer items from the LTCH CARE Data Set) ^^<br>• NQF #0674: An application of Percent of Residents Experiencing One or More Falls with Major Injury (Long Stay) (data element source: Falls items from the Minimum Data Set 3.0) ** ^^^<br>• NQF #2631; under review: An application of Percent of LTCH Patients with a an Admission and Discharge Functional Assessment and a Care Plan that Addressed Function (data element source: Selected function items from the CARE Tool used during the Post-Acute Care Payment Reform Demonstration) *** ^^^<br>• NQF #2633; under review: IRF Functional Outcome Measure: Change in Self-Care Score for Medical Rehabilitation Patients ** (data element source: Selected function items from the CARE Tool used during the Post-Acute Care Payment Reform Demonstration) *** ^^^<br>• NQF #2634; under review: IRF Functional Outcome Measure: Change in Mobility Score for Medical Rehabilitation Patients (data element source: Selected function items from the CARE Tool used during the Post-Acute Care Payment Reform Demonstration) *** ^^^<br>• NQF #2635; under review: IRF Functional Outcome Measure: Discharge Self-Care Score for Medical Rehabilitation Patients (data element source: Selected function items from the CARE Tool used during the Post-Acute Care Payment Reform Demonstration) *** ^^^<br>• NQF #2636; under review: IRF Functional Outcome Measure: Discharge Mobility Score for Medical Rehabilitation Patients (data element source: Selected function items from the CARE Tool used during the Post-Acute Care Payment Reform Demonstration) *** ^^^ |

+ Using CDC/NHSN.
^ Medicare Fee-for-Service claims data.
^^ IRF–PAI items would be modified.
^^^ New IRF–PAI items would be required.
* Re-proposed quality measure for FY 2018 and subsequent years.
** Not NQF-endorsed for the IRF setting.
*** Not NQF-endorsed, CMS submitted the measure for NQF review in November 2014.

### *H. IRF QRP Quality Measures and Measure Concepts Under Consideration for Future Years*

We are inviting public comments on relevance and applicability of each of the quality measures and quality measure concepts listed in Table 20 for future years in the IRF QRP. Specifically, we invite public comments regarding the clinical importance, the feasibility of data collection and implementation to inform and improve quality of care delivered to IRF patients.

**TABLE 20: Future Measures and Measure Concepts under Consideration for the IRF Quality Reporting Program**

| |
|---|
| National Quality Strategy Priority: Patient Safety |
| Venous Thromboembolism Prophylaxis |
| Medication Reconciliation* |
| National Quality Strategy Priority: Effective Communication and Coordination of Care |
| Transfer of health information and care preferences when an individual transitions* |
| All-Condition Risk-Adjusted Potentially Preventable Hospital Readmission Rates* |
| National Quality Strategy Priority: Patient- and Caregiver-Centered Care |
| Discharge to Community* |
| Patient Experience of Care |
| Percent of Patients with Moderate to Severe Pain |
| National Quality Strategy Priority: Affordable Care |
| Medicare Spending per Beneficiary* |

* Indicates that this is a cross-setting measure domain listed in the IMPACT Act of 2014.

*I. Proposed Form, Manner, and Timing of Quality Data Submission for the FY 2018 Payment Determination and Subsequent Years*

1. Background

Section 1886(j)(7)(C) of the Act requires that, for the FY 2014 payment determination and subsequent years, each IRF submit to the Secretary data on quality measures specified by the Secretary. In addition, section 1886(j)(7)(F) of the Act, as added by the IMPACT Act, requires that, for the FY beginning on the specified application date, as defined in section 1899B(a)(2)(E) of the Act, and each subsequent year, each IRF submit to the Secretary data on measures specified by the Secretary under section 1899B. The data required under section 1886(j)(7)(C) and (F) must be submitted in a form and manner, and at a time, specified by the Secretary. As required by section 1886(j)(7)(A)(i) of the Act, for any IRF that does not submit data in accordance with section 1886(j)(7)(C) and (F) of the Act with respect to a given fiscal year, the annual increase factor for payments for discharges occurring during the fiscal year must be reduced by 2 percentage points.

2. Proposed Timeline for Data Submission Under the IRF QRP for the FY 2018 and FY 2019 Payment Determinations

We propose the following data submission timeline for the quality measures that we have proposed for the FY 2018 adjustments to the IRF PPS annual increase factor. We propose that IRFs would be required to submit IRF–PAI data on discharges occurring between October 1, 2016 and December 31, 2016 (first quarter), for the FY 2018 adjustments to the IRF PPS annual increase factor. For FY 2019, we propose that IRFs would be required to submit data on discharges occurring between January 1, 2017 and December 31, 2017 (1 year). We propose this time frame because we believe this will provide sufficient time for IRFs, and we can put processes and procedures in place to meet the additional quality reporting requirements. Given that these measures are collected via the IRF–PAI, and IRFs are already familiar with the QIES ASAP system, we believe this proposed timeframe will allow IRFs ample opportunity to begin reporting the newly proposed measures, should they be finalized. We also propose that the quarterly data submission deadlines (for submitting IRF–PAI corrections) for the FY 2018 adjustments to the IRF PPS annual increase factor occur approximately 135 days after the end of the quarter, as outlined in the Table 21. Each quarterly deadline would be the date by which all data collected during the preceding quarter would be required to be submitted to us for measures using the IRF–PAI.

We invite public comment on these proposed timelines for data submission for the proposed IRF QRP quality measures for the FY 2018 and FY 2019 adjustments to the IRF PPS annual increase factor.

TABLE 21—DATA COLLECTION TIME FRAME AND SUBMISSION DEADLINES FOR PROPOSED IRF QRP QUALITY DATA FOR MEASURES * USING IRF–PAI AS DATA COLLECTION MECHANISM, FY 2018 ADJUSTMENTS TO THE ANNUAL INCREASE FACTOR

| Quarter (calendar year) | Data collection time frame | Deadline submission of IRF–PAI corrections | Annual increase factor affected |
|---|---|---|---|
| Quarter 4 (CY 2016) | October 1, 2016—December 31, 2016 | May 15, 2017 | FY 2018 |

* includes data required for the 3 cross-setting IMPACT Act measures.

TABLE 22—DATA COLLECTION TIME FRAME AND SUBMISSION DEADLINES FOR RE-PROPOSED AND ADDITIONAL IRF QRP QUALITY DATA FOR MEASURES USING IRF–PAI AS DATA COLLECTION MECHANISM, FY 2019 ADJUSTMENTS TO THE ANNUAL INCREASE FACTOR

| Quarter (calendar year) | Data collection time frame | Deadline submission of IRF–PAI corrections | Annual increase factor affected |
|---|---|---|---|
| Quarter 1 (CY 2017) | January 1, 2017—March 31, 2017 | August 15, 2017 | FY 2019 |
| Quarter 2 (CY 2017) | April 1, 2017—June 30, 2017 | November 15, 2017 | FY 2019 |
| Quarter 3 (CY 2017) | July 1, 2017—September 30, 2017 | February 15, 2018 | FY 2019 |
| Quarter 4 (CY 2017) | October 1, 2017—December 31, 2017 | May 15, 2018 | FY 2019 |

3. Proposed Revision to the Previously Adopted Data Collection Timelines and Submission Deadlines

We are proposing that the quality measures in the IRF QRP have a data collection time frame based on the calendar year, unless there is a clinical reason for an alternative data collection time frame. For example, for Influenza Vaccination Coverage among Healthcare Personnel (NQF #0431) and Percent of Residents or Patients Who Were Assessed and Appropriately Given the Seasonal Influenza Vaccine (Short-Stay) (NQF #0680), the data collection period is tied to the influenza vaccination season. At this time, three of the quality measures submitted via CDC's NHSN (that is, the CAUTI measure [NQF #0138], the MRSA measure [NQF #1716], and the CDI measure [NQF #1717]) use a quarterly data collection time frame based on the calendar year. The pressure ulcer measure [NQF #0678], which is submitted using the IRF–PAI, follows a fiscal year data collection time frame due to the current fiscal-year-based release schedule of the IRF–PAI. The two influenza vaccination quality measures (Percent of Residents or Patients Who Were Assessed and Appropriately Given the Seasonal Influenza Vaccine [NQF #0680], Influenza Vaccination Coverage among Healthcare Personnel [NQF #0431]) use a data collection time frame that is consistent with the influenza vaccination season (that is, October 1 [or when the vaccine becomes available] to March 31).

We are proposing to revise the data collection time frame to follow the calendar year, unless there is a clinical reason for an alternative data collection time frame. We posit this change will simplify the data collection and submission timeframe under the IRF QRP for IRF providers. It would also eliminate the situation in which data collection during a quarter in the same calendar year can affect two different years of annual payment update determination (that is, October 1 to December 31 is first quarter of data collection for quality measures with fiscal year data collection time frame and the last quarter of data collection for quality measures with calendar data collection time frame). If this proposal was implemented, when additional quality measures that use IRF–PAI as the data collection mechanism are adopted for the IRF QRP, the first data collection time frame will be 3 months (October to December) and subsequent data collection timeframe would follow a calendar year data collection time frame.

We invite public comments on our proposal to adopt calendar data collection timeframes, unless there is a clinical reason for an alternative data collection time frame.

4. Proposed Data Submission Mechanisms for the FY 2018 and Subsequent Years Payment Determination for Additional IRF QRP Quality Measures and for Revisions to Previously Adopted Quality Measures

We are proposing that all IRFs would be required to collect data using a revised IRF–PAI Version 1.4 (IRF–PAI 1.4) for the proposed pressure ulcer measure and the additional six quality measures: (1) Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (Short-Stay) ((NQF #0678); (2) an application of Percent of Residents Experiencing One or More Falls with Major Injury (Long Stay) (NQF #0674); (3) an application of Percent of LTCH Patients with an Admission and Discharge Functional Assessment and a Care Plan That Addresses Function (NQF #2631; under review); (4) IRF Functional Outcome Measure: Change in Self-Care Score for Medical Rehabilitation Patients (NQF #2633; under review); (5) IRF Functional Outcome Measure: Change in Mobility Score for Medical Rehabilitation Patients (NQF #2634; under review); (6) IRF Functional Outcome Measure: Discharge Self-Care Score for Medical Rehabilitation Patients (NQF #2635; under review); and (7) IRF Functional Outcome Measure: Discharge Mobility Score for Medical Rehabilitation Patients (NQF #2636; under review). IRF–PAI Version 1.4 would have modified pressure ulcer items collected at admission and discharge, new fall items collected at discharge, new self-care and mobility functional status items collected at admission and discharge, and new risk factor items for the self-care and mobility measures collected at admission. The proposed IRF–PAI Version 1.4 is available at: *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting/IRF-Quality-Reporting-Program-Measures-Information-.html*

The QIES ASAP system would remain the data submission mechanism for the IRF–PAI. We will release the technical data submission specifications and update the IRF–PAI Training Manual to include items related to the new and updated quality measures in CY 2015. Further information on data submission of the IRF–PAI for the IRF QRP using the QIES ASAP system is available at: *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientRehabFacPPS/IRFPAI.html*. We invite public comments on these proposals.

*J. Previously Adopted and Proposed Timing for New IRFs To Begin Submitting Quality Data Under the IRF QRP for the FY 2018 Payment Determination and Subsequent Years*

In the FY 2015 IRF PPS (79 FR 45918), we finalized that beginning with the FY 2017 payment determination and that of subsequent fiscal years, new IRFs are required to begin reporting data under the IRF QRP requirements no later than the first day of the calendar quarter subsequent to the quarter in which it was designated as operating in the Certification and Survey Provider Enhanced Reports (CASPER) system.

To ensure that all IRFs have a minimum amount of time to prepare to submit quality data to CMS under the requirements of the IRF QRP, beginning

with the FY 2017 payment determination, we are proposing that a new IRF be required to begin reporting quality data under the IRF QRP by no later than the first day of the calendar quarter subsequent to 30 days after the date on its CMS Certification Number (CCN) notification letter. For example, if an IRF's CCN notification letter is dated March 15th, then the IRF would be required to begin reporting quality data to CMS beginning on July 1st (March 15 + 30 days = April 14 (quarter 2). The IRF would be required to begin collecting quality data on the first day of the quarter subsequent to quarter 2, which is quarter 3, or July 1st). The collection of quality data would begin on the first day of the calendar year quarter identified as the start date, and would include all IRF admissions and subsequent discharges beginning on, and subsequent to, that day; however, the actual submission of quality data would be required by previously finalized quarterly deadlines, which fall approximately 135 days post the end of each CY quarter. To determine which quality measure data an IRF would need to begin submitting, we refer you to section VIII.E of this proposed rule, as it will vary depending upon the timing of the CY quarter identified as a start date.

We propose to add the IRF QRP participation requirements at § 412.634 and invite public comments on our proposal to the participation requirements for new IRFs.

*K. IRF QRP Data Completion Thresholds for the FY 2016 Payment Determination and Subsequent Years*

In the FY 2015 IRF PPS final rule (79 FR 45921 through 45923), we finalized IRF QRP thresholds for completeness of IRF data submissions. To ensure that IRFs are meeting an acceptable standard for completeness of submitted data, we finalized the policy that, beginning with the FY 2016 payment determination and for each subsequent year, IRFs must meet or exceed two separate data completeness thresholds: one threshold set at 95 percent for completion of quality measures data collected using the IRF–PAI submitted through the QIES and a second threshold set at 100 percent for quality measures data collected and submitted using the CDC NHSN.

Additionally, we stated that we will apply the same thresholds to all measures adopted as the IRF QRP expands and IRFs begin reporting data on previously finalized measure sets. That is, as we finalize new measures through the regulatory process, IRFs will be held accountable for meeting the previously finalized data completion threshold requirements for each measure until such time that updated threshold requirements are proposed and finalized through a subsequent regulatory cycle.

Further, we finalized the requirement that an IRF must meet or exceed both thresholds to avoid receiving a 2 percentage point reduction to their annual payment update for a given fiscal year, beginning with FY 2016 and for all subsequent payment updates. We are not proposing any changes to these policies. Refer to the FY 2015 IRF PPS final rule (79 FR 45921 through 45923) for a detailed discussion of the finalized IRF QRP data completion requirements.

*L. Proposed Suspension of the IRF QRP Data Validation Process for the FY 2016 Payment Determination and Subsequent Years*

Validation is intended to provide added assurance of the accuracy of the data that will be reported to the public as required by sections 1886(j)(7)(E) and 1899B(g) of the Act. In the FY 2015 IRF PPS rule (79 FR 45923), we finalized, for the FY 2016 adjustments to the IRF PPS annual increase factor and subsequent years, a process to validate the data submitted for quality purposes. At this time we are proposing to temporarily suspend the implementation of this policy. We are proposing that, through the suspension of this previously finalized policy, data accuracy validation will have no bearing on the applicable FY annual increase factor reduction for FY 2016 and subsequent years unless and until we propose to either reenact this policy, or propose to adopt a new validation policy through future notice-and-comment rulemaking. At this time, we are working to develop a more comprehensive data validation policy that is aligned across the PAC quality reporting programs, and believe that we can implement a policy that increases the efficiency with which data validation is performed. We are also considering ways to reduce the labor and cost burden on IRFs through the development of a new data accuracy validation policy.

We invite comment on our proposal.

*M. Previously Adopted and Proposed IRF QRP Submission Exception and Extension Requirements for the FY 2017 Payment Determination and Subsequent Years*

In the FY 2014 IRF PPS final rule (78 FR 47920), we finalized a process for IRF providers to request and for us to grant exceptions or extensions for the reporting requirements of the IRF QRP for one or more quarters, beginning with the FY 2015 payment determination and for subsequent years when there are extraordinary circumstances beyond the control of the provider. We also finalized a policy that allows us to grant exemptions or extensions to IRFs that did not request them when it is determined than an extraordinary circumstance affects an entire region or locale.

In the FY 2015 IRF PPS final rule (79 FR 45920 through 45921), we adopted the policies and procedures previously finalized in the FY 2014 IRF PPS final rule for the FY 2017 payment determination and that of subsequent years. We also finalized the policy that grant an exception or extension to IRFs if we determine that a systemic problem with one of our data collection systems directly affected the ability of an IRF to submit data.

We are not proposing any changes to the previously finalized policies and procedures for the FY 2018 payment determination and beyond.

In the FY 2014 IRF PPS final rule and the FY 2015 IRF PPS final rule, we stated that IRFs must submit request an exception or extension by submitting a written request along with all supporting documentation to CMS via email to the IRF QRP mailbox at *IRFQRPReconsiderations@cms.hhs.gov*. We further stated that exception or extension requests sent to us through any other channel would not be considered as a valid request for an exception or extension from the IRF QRP's reporting requirements for any payment determination. To be considered, a request for an exception or extension must contain all of the requirements as outlined on CMS Web site at: *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting/IRF-Quality-Reporting-Reconsideration-and-Exception-and-Extension.html*.

We propose to add the IRF QRP Submission Exception and Extension Requirements at § 412.634. Refer to the FY 2014 IRF PPS final rule (78 FR 47920) and the FY 2015 IRF PPS final rule (79 FR 45920 through 45921) for detailed discussions of the IRF QRP Submission Exception and Extension Requirements.

*N. Previously Adopted and Proposed IRF QRP Reconsideration and Appeals Procedures for the FY 2017 Payment Determination and Subsequent Years*

At the conclusion of each FY reporting cycle, we review the data received from each IRF to determine if the IRF met the reporting requirements set forth for that reporting cycle. IRFs that are found to be non-compliant will

receive a reduction in the amount of 2 percentage points to their annual payment update for the applicable fiscal year. In the FY 2015 IRF PPS final rule (79 FR 45919 through 45920), we described and adopted an updated process that enables an IRF to request a reconsideration of our initial noncompliance decision in the event that an IRF believes that it was incorrectly identified as being subject to the 2-percentage point reduction to its IRF PPS annual increase factor due to noncompliance with the IRF QRP reporting requirements for a given reporting period.

Any IRF that wishes to submit a reconsideration request must do so by submitting an email to CMS containing all of the requirements listed on the IRF program Web site at *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting/IRF-Quality-Reporting-Reconsideration-and-Exception-and-Extension.html*. Email sent to *IRFQRPReconsiderations@cms.hhs.gov* is the only form of submission that will be accepted by us. Any reconsideration requests received through another channel, including U.S. postal service or phone, will not be considered as a valid reconsideration request.

We propose to continue using the IRF QRP Reconsideration and Appeals Procedures that were adopted in the FY 2015 IRF PPS final rule (79 FR 45919 through 45920) for the FY 2017 payment determination and subsequent years with an exception regarding the way in which non-compliant IRFs are notified of this determination.

Currently only IRFs found to be non-compliant with the reporting requirements set forth for a given payment determination received a notification of this finding along with instructions for requesting reconsideration in the form of a certified United States Postal Service (USPS) letter. In an effort to communicate as quickly, efficiently, and broadly as possible with IRFs regarding annual compliance, we are proposing changes to our communications method regarding annual notification of reporting compliance in the IRF QRP. In addition to sending letters via regular USPS mail, beginning with the FY 2016 payment determination and for subsequent fiscal years, we propose to use the QIES as a mechanism to communicate to IRFs regarding their compliance with the reporting requirements for the given reporting cycle.

We propose that all Medicare-certified IRF compliance letters be uploaded into the QIES system for each IRF to access. Instructions to download files from QIES may be found at *https://www.qtso.com/irfpai.html*. We propose to disseminate communications regarding the availability of compliance reports in IRFs' QIES files through routine channels to IRFs and vendors, including, but not limited to, issuing memos, emails, Medicare Learning Network (MLN) announcements, and notices on *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting/Reconsideration-and-Disaster-Waiver-Requests.html*.

The purpose of the compliance letter is to notify an IRF that it has been identified as either being compliant or non-compliant with the IRF QRP reporting requirements for the given reporting cycle. If the IRF is determined to be non-compliant, then the notification would indicate that the IRF is scheduled to receive a 2 percentage point reduction to its upcoming annual payment update and that it may file a reconsideration request if it disagrees with this finding. IRFs may request a reconsideration of a non-compliance determination through the CMS reconsideration request process. We also propose that the notifications of our decision regarding all received reconsideration requests will be made available through the QIES system. We are not proposing to change the process or requirements for requesting reconsideration. Refer to the FY 2015 IRF PPS final rule (79 FR 45919 through 45920) for a detailed discussion of the IRF QRP Reconsideration and Appeals Procedures.

Below, we include a proposal to publish a list of IRFs who successfully meet the reporting requirements for the applicable payment determination on the IRF QRP Web site *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting/*. As proposed below, we would also update the list of IRFs who successfully meet the reporting requirements after all reconsideration requests have been processed on an annual basis.

We propose to add the IRF QRP Reconsideration and Appeal Procedures at § 412.634.

We invite comment on the proposals to change the communication mechanism to the QIES system for the dissemination of compliance notifications and reconsideration decisions and to add these processes at § 412.634.

*O. Proposed Public Display of Quality Measure Data for the IRF QRP*

Section 1886(j)(7)(E) of the Act requires the Secretary to establish procedures for making the IRF QRP data available to the public. In so doing, the Secretary must ensure that IRFs have the opportunity to review any such data with respect to the IRF prior to its release to the public. Section 1899B(g) of the Act requires the Secretary to establish procedures for making available to the public information regarding the performance of individual PAC providers with respect to the measures required under section 1899B beginning not later than 2 years after the applicable specified application date. The procedures must ensure, including through a process consistent with the process applied under section 1886(b)(3)(B)(viii)(VII) for similar purposes, that each PAC provider has the opportunity to review and submit corrections to the data and information that are to be made public with respect to the PAC provider prior to such data being made public. We propose a policy to display performance information regarding the quality measures, as applicable, required by the IRF QRP by fall 2016 on a CMS Web site, such as the Hospital Compare Web site: *http://www.hospitalcompare.hhs.gov*, after a 30-day preview period. Additional information about preview report content and delivery will be announced on the IRF QRP Web site.

The Hospital Compare Web site is an interactive web tool that assists beneficiaries by providing information on hospital quality of care to those who need to select a hospital. It further serves to encourage beneficiaries to work with their providers to discuss the quality of care provided to patients, thereby providing an additional incentive to providers to improve the quality of care that they furnish. As we have done on other CMS compare Web sites, we will, at some point in the future, report public data using a quality rating system that gives each IRF a rating between 1 and 5 stars. Initially, however, we will not use the 5-star methodology, until such time that we are publically reporting a sufficient number of quality metrics to allow for variation and the differentiation between IRFs using this methodology. Decisions regarding how the rating system will determine a providers star rating and methods used for calculations, as well as a proposed timeline for implementation will be announced via regular IRF QRP communication channels, including listening sessions, memos, email

notification, provider association calls, Open Door Forums, and Web postings. Providers would be notified via CMS listservs, CMS mass emails, and memorandums, IRF QPR Web site announcements and MLN announcements regarding the release of IRF Provider Preview Reports followed by the posting of data.

The initial display of information would contain IRF provider performance on the following three quality measures:

- Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (Short Stay) (NQF #0678)
- NHSN CAUTI Outcome Measure (NQF #0138)
- All-Cause Unplanned Readmission Measure for 30 Days Post Discharge From IRFs (NQF #2502)

For the first 2 listed measures, Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (Short Stay) (NQF #0678) and NHSN CAUTI Outcome Measure (NQF #0138), we propose publicly reporting data beginning with data collected on these measures for discharges beginning January 1, 2015. Rates would be displayed based on 4 rolling quarters of data and would initially be reported using discharges from January 1, 2015 through December 31, 2015, for calculation. As each quarter advances, we would add the subsequent calendar year quarter and remove the earliest calendar year quarter. For example, initially we would use data from discharges occurring from January 1, 2015 through December 31, 2015. The next quarter, we would display performance data using discharges that occurred between the dates of April 1, 2015 through March 31, 2016, etc.

For the measure All-Cause Unplanned Readmission Measure for 30 Days Post Discharge From IRFs (NQF #2502), we propose to publicly report data beginning with data collected for discharges beginning January 1, 2013. Rates would be displayed based on 2 consecutive years of data and would initially be reported using discharges from January 1, 2013 through December 31, 2014. As each calendar year advances, we would add the subsequent calendar year quarter and remove the earliest calendar year quarter.

Calculations for the CAUTI measure adjust for differences in the characteristics of hospitals and patients using a Standardized Infection Ratio (SIR). The SIR is a summary measure that takes into account differences in the types of patients a hospital treats. The SIR may take into account the type of patient care location, laboratory testing methods, hospital affiliation with a medical school, bed size of the hospital, and bed size of specific patient care locations. It compares the actual number of Healthcare Associated Infections (HAIs) in a facility or state to a national benchmark based on previous years of reported data and adjusts the data based on several risk factors. A confidence interval with a lower and upper limit is displayed around each SIR to indicate that there is a high degree of confidence that the true value of the SIR lies within that interval. An SIR with a lower limit that is greater than 1.0 means that there were more HAIs in a facility or state than were predicted, and the facility is classified as ''Worse than the U.S. National Benchmark''. If the SIR has an upper limit that is less than 1, then the facility had fewer HAIs than were predicted and is classified as ''Better than the U.S. National Benchmark''. If the confidence interval includes the value of 1, then there is no statistical difference between the actual number of HAIs and the number predicted, and the facility is classified as ''No Different than U.S. National Benchmark''. If the number of predicted infections is a specific value less than 1, the SIR and confidence interval cannot be calculated.

Calculations for the Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened measure application (NQF #0678) will be risk-adjusted. Resident- or patient-level covariate risk adjustment is performed. Resident- or patient-level covariates are used in a logistic regression model to calculate a resident- or patient-level expected quality measure (QM) score (the probability that the resident or patient will evidence the outcome, given the presence or absence of patient characteristics measured by the covariates). Then, an average of all resident- or patient-level expected QM scores for the facility is calculated to create a facility-level expected QM score. The final facility-level adjusted QM score is based on a calculation which combines the facility-level expected score and the facility level observed score. Additional information about the covariates can be found at: *http://www.qualityforum.org/QPS/QPSTool.aspx?m=213&e=1#qpsPageState=%7B%22TabType%22%3A1,%22TabContentType%22%3A2,%22ItemsToCompare%22%3A%5B%5D,%22StandardID%22%3A213,%22EntityTypeID%22%3A1%7D.*

Finally, calculation for performance on the measure All-Cause Unplanned Readmission Measure for 30 Days Post Discharge from IRFs (NQF #2502) will also be risk-adjusted. The risk adjustment methodology is available, along with the specifications for this measure, on our IRF Quality Reporting Measures Information Web page at *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting/IRF-Quality-Reporting-Program-Measures-Information-.html.*

We are currently developing reports that will allow providers to view the data that is submitted to CMS via the QIES ASAP system and the CDC's NHSN (Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (Short Stay) (NQF #0678) and NHSN CAUTI Outcome Measure (NQF #0138), respectively). Although initial reports will not allow providers to view this data, subsequent iterations of these reports will also include provider performance on any currently reported quality measure that is calculated based on CMS claims data that we plan on publicly reporting (All-Cause Unplanned Readmission Measure for 30 Days Post-Discharge from IRFs (NQF #2502)). Although real time results will not be available, the report will refresh all of the data submitted at least once a month. We propose a process to give providers an opportunity to review and correct data submitted to the QIES ASAP system or to the CDC's NHSN system by utilizing that report. Under this proposed process, providers would to have the opportunity to review and correct data they submit on all assessment-based measures. Providers can begin submitting data on the first discharge day of any reporting quarter. Providers are encouraged to submit data early in the submission schedule so that they can identify errors and resubmit data before the quarterly submission deadline. The data would be populated into reports that are updated at least once a month with all data that have been submitted. That report would contain the provider's performance on each measure calculated based on assessment submissions to the QIES ASAP or CDC NHSN system. We believe that the submission deadline timeframe, which is 4.5 months beyond the end of each calendar year quarter, is sufficient time for providers to be able to submit, review data, make corrections to the data, and view their data. We note that the quarterly data submission deadline/timeframe only applies to the quality indicator section of the IRF–PAI, and has no bearing on the current deadline of 27 days that is imposed for payment items. We propose that once the provider has an opportunity to review and correct quarterly data related to measures submitted via the QIES ASAP

or CDC NHSN system, we would consider the provider to have been given the opportunity to review and correct this data. We would not allow patient-level data correction after the submission deadline or for previous years. This is because we must set a deadline to ensure timely computation of measure rates and payment adjustment factors. Before we display this information, providers will be permitted 30 days to review their information as recorded in the QIES ASAP or CDC NHSN system.

In addition to our proposal, we are proposing to publish a list of IRFs who successfully meet the reporting requirements for the applicable payment determination on the IRF QRP Web site *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting/*. We propose updating the list after reconsideration requests are processed on an annual basis.

We invite public comment on the listed proposals.

*P. Proposed Method for Applying the Reduction to the FY 2016 IRF Increase Factor for IRFs That Fail To Meet the Quality Reporting Requirements*

As previously noted, section 1886(j)(7)(A)(i) of the Act requires the application of a 2-percentage point reduction of the applicable market basket increase factor for IRFs that fail to comply with the quality data submission requirements. In compliance with 1886(j)(7)(A)(i) of the Act, we will apply a 2-percentage point reduction to the applicable FY 2016 market basket increase factor (1.9 percent) in calculating an adjusted FY 2016 standard payment conversion factor to apply to payments for only those IRFs that failed to comply with the data submission requirements. As previously noted, application of the 2-percentage point reduction may result in an update that is less than 0.0 for a fiscal year and in payment rates for a fiscal year being less than such payment rates for the preceding fiscal year. Also, reporting-based reductions to the market basket increase factor will not be cumulative; they will only apply for the FY involved. Table 23 shows the calculation of the adjusted FY 2016 standard payment conversion factor that will be used to compute IRF PPS payment rates for any IRF that failed to meet the quality reporting requirements for the period from January 1, 2014, through December 31, 2014.

TABLE 23—CALCULATIONS TO DETERMINE THE ADJUSTED FY 2016 STANDARD PAYMENT CONVERSION FACTOR FOR IRFS THAT FAILED TO MEET THE QUALITY REPORTING REQUIREMENT

| Explanation for adjustment | | Calculations |
|---|---|---|
| Standard Payment Conversion Factor for FY 2015 | | $15,198 |
| Market Basket Increase Factor for FY 2016 (2.7 percent), reduced by 0.6 percentage point for the productivity adjustment as required by section 1886(j)(3)(C)(ii)(I) of the Act, reduced by 0.2 percentage point in accordance with sections 1886(j)(3)(C) and (D) of the Act and further reduced by 2 percentage points for IRFs that failed to meet the quality reporting requirement | × | 0.9990 |
| Budget Neutrality Factor for the Wage Index and Labor-Related Share | × | 1.0027 |
| Budget Neutrality Factor for the Revisions to the CMG Relative Weights | × | 1.0000 |
| Final Adjusted FY 2016 Standard Payment Conversion Factor | = | 15,224 |

We invite public comment on the proposed method for applying the reduction to the FY 2016 IRF increase factor for IRFs that fail to meet the quality reporting requirements.

## IX. Collection of Information Requirements

*A. Statutory Requirement for Solicitation of Comments*

Under the Paperwork Reduction Act of 1995 (PRA), we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. To fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

This proposed rule makes reference to associated information collections that are not discussed in the regulation text contained in this document.

*B. Collection of Information Requirements for Updates Related to the IRF QRP*

Failure to submit data required under section 1886(j)(7)(C) and (F) will result in the reduction of the annual update to the standard federal rate for discharges occurring during such fiscal year by 2 percentage points for any IRF that does not comply with the requirements established by the Secretary. At the time that this analysis was prepared, 91, or approximately 8 percent, of the 1166 active Medicare-certified IRFs did not receive the full annual percentage increase for the FY 2015 annual payment update determination. Information is not available to determine the precise number of IRFs that will not meet the requirements to receive the full annual percentage increase for the FY 2016 payment determination.

We believe that the burden associated with the IRF QRP is the time and effort associated with data collection and reporting. As of April 1, 2015, there are approximately 1132 IRFs currently reporting quality data to CMS. In this proposed rule, we are proposing 2 quality measures that have already been adopted for the IRF QRP: (1) All-Cause Unplanned Readmission Measure for 30 Days Post-Discharge from IRFs (NQF #2502), to establish the newly NQF-endorsed status of this measures; and (2) Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (NQF #0678), to establish its use as a cross-setting measure that addresses the domain of skin integrity, as required by the IMPACT Act of 2014. The All-Cause Unplanned Readmission Measure for 30 Days Post-Discharge from IRFs is a Medicare claims-based measure; because claims-based measures can be calculated based on data that are already reported to the Medicare program for payment purposes, we believe there will be no additional impact. We also believe that there will be no additional burden

associated with our re-proposal of the measure Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (NQF #0678), as IRFs are already submitting quality data related to this measure.

We are also proposing to adopt 6 additional quality measures. These 6 new proposed quality measures are: (1) An application of Percent of Residents Experiencing One or More Falls with Major Injury (Long Stay) (NQF #0674); (2) an application of Percent of LTCH Patients with an Admission and Discharge Functional Assessment and a Care Plan that Addresses Function (NQF #2631; under review); (3) IRF Functional Outcome Measure: Change in Self-Care Score for Medical Rehabilitation Patients (NQF #2633; under review); (4) IRF Functional Outcome Measure: Change in Mobility Score for Medical Rehabilitation Patients (NQF #2634; under review); (5) IRF Functional Outcome Measure: Discharge Self-Care Score for Medical Rehabilitation Patients (NQF #2635; under review); and (6) IRF Functional Outcome Measure: Discharge Mobility Score for Medical Rehabilitation Patients (NQF #2636; under review). Additionally we propose that data for these 6 new measures will be collected and reported using the IRF–PAI (version 1.4).

Our burden calculations take into account all ''new'' items required on the IRF–PAI (version 1.4) to support data collection and reporting for these six proposed measures. New items will be included on the following assessment: IRF–PAI version 1.4 Admission and Discharge assessment. The addition of the new items required to collect the six newly proposed measures is for the purpose of achieving standardization of data elements.

We estimate the additional elements for the six newly proposed measures will take 25.5 minutes of nursing/clinical staff time to report data on admission and 16.0 minutes of nursing/clinical staff time to report data on discharge, for a total of 41.5 minutes. We believe that the additional IRF–PAI items we are proposing will be completed by Registered Nurses (RN), Occupational Therapists (OT), Speech Language Pathologists (SLP) and/or Physical Therapists (PT), depending on the item. We identified the staff type per item based on past LTCH and IRF burden calculations in conjunction with expert opinion. Our assumptions for staff type were based on the categories generally necessary to perform assessment: RN, OT, SLP, and PT. Individual providers determine the staffing resources necessary; therefore, we averaged the national average for these labor types and established a composite cost estimate. This composite estimate was calculated by weighting each salary based on the following breakdown regarding provider types most likely to collect this data: RN 59 percent; OT 11 percent; PT 20 percent; SLP 1 percent. In accordance with OMB control number 0938–0842, we estimate 390,748 discharges from all IRFs annually, with an additional burden of 41.5 minutes. This would equate to 270,267.37 total hours or 238.75 hours per IRF. We believe this work will be completed by RN, OT, PT, and SLP staff, depending on the item. We obtained mean hourly wages for these staff from the U.S. Bureau of Labor Statistics' May 2013 National Occupational Employment and Wage Estimates (*http://www.bls.gov/oes/current/oes_nat.htm*), to account for overhead and fringe benefits, we have doubled the mean hourly wage. Per the U.S. Bureau of Labor and Statistics, the mean hourly wage for a RN is $33.13. However, to account for overhead and fringe benefits, we have double the mean hourly wage, making it $66.26 for an RN. The mean hourly wage for an OT is $37.45, doubled to $74.90 to account for overhead and fringe benefits. The mean hourly wage for a PT is $39.51, doubled to $79.02 to account for overhead and fringe benefits. The mean hourly wage for a SLP is $35.56, doubled to $71.12 to account for overhead and fringe benefits. Given these wages and time estimates, the total cost related to the six newly proposed measures is estimated at $21,239.33 per IRF annually, or $22,529,560.74–$24,042,291.01 for all IRFs annually.

For the discussion purposes, we provided a detailed description of the burden associated with the proposed requirements in section XI. of this proposed rule. However, the burden associated with the aforementioned requirements is exempt from the PRA under the IMPACT Act of 2014. Section 1899B(m) and the sections referenced in section 1899B(a)(2)(B) of the Act exempt modifications that are intended to achieve the standardization of patient assessment data. The requirement and burden will, however, be submitted to OMB for review and approval when the quality measures and the PAC assessment instruments are no longer used to achieve the standardization of patient assessment data.

In section VIII.F of this proposed rule, we are proposing 2 quality measures that have already been adopted for the IRF QRP: (1) All-Cause Unplanned Readmission Measure for 30 Days Post Discharge from IRFs (NQF #2502), to establish the newly NQF-endorsed status of this measures; and (2) Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (NQF #0678), to establish its use as a cross-setting measure that addresses the domain of skin integrity, as required by the IMPACT Act of 2014. The All-Cause Unplanned Readmission Measure for 30 Days Post-Discharge from IRFs is a Medicare claims-based measure; because claims-based measures can be calculated based on data that are already reported to the Medicare program for payment purposes, we believe there will be no additional impact as a result of this measure. We also believe that there will be no additional burden associated with our proposal of the measure Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (NQF #0678), as IRFs are already submitting quality data related to this measure.

In section VIII.G of this proposed rule, we are also proposing to adopt six new quality measures. These 6 proposed quality measures are: (1) An application of Percent of Residents Experiencing One or More Falls with Major Injury (Long Stay) (NQF #0674); (2) an application of Percent of LTCH Patients with an Admission and Discharge Functional Assessment and a Care Plan That Addresses Function (NQF #2631; under review); (3) IRF Functional Outcome Measure: Change in Self-Care Score for Medical Rehabilitation Patients (NQF #2633; under review); (4) IRF Functional Outcome Measure: Change in Mobility Score for Medical Rehabilitation Patients (NQF #2634; under review); (5) IRF Functional Outcome Measure: Discharge Self-Care Score for Medical Rehabilitation Patients (NQF #2635; under review); and (6) IRF Functional Outcome Measure: Discharge Mobility Score for Medical Rehabilitation Patients (NQF #2636; under review). Additionally, we propose that data for the six measures will be collected and reported using the IRF–PAI (version 1.4). While the reporting of data on quality measures is an information collection, we believe that the burden associated with modifications to the IRF–PAI discussed in this proposed rule fall under the PRA exceptions provided in 1899B(m) of the Act because they are required to achieve the standardization of patient assessment data. Section 1899B(m) of the Act provides that the PRA does not apply to section 1899B and the sections referenced in section 1899B(a)(2)(B) of the Act that require modification to achieve the standardization of patient assessment data. The requirement and

burden will, however, be submitted to OMB for review and approval when the modifications to the IRF–PAI or other applicable PAC assessment instrument are not used to achieve the standardization of patient assessment data. Additionally, while quality measures 3, 4, 5, and 6 listed are not specifically required by the IMPACT Act, the data elements used to inform those measures are part of larger set of functional status data items that have been added to the IRF–PAI version 1.4, for the purpose of providing standardized data elements under the domain of functional status, which is required by the IMPACT Act. These same data elements are used to inform different quality measures that we have proposed, each with a different outcome.

With regard to quality reporting during extraordinary circumstances, section VIII.M of this proposed rule, proposes to add a previously finalized process that IRFs may request an exception or extension from the FY 2018 payment determination and that of subsequent payment determinations. The request must be submitted by email within 90 days from the date that the extraordinary circumstances occurred.

While the preparation and submission of the request is an information collection, unlike the aforementioned temporary exemption of the data collection requirements for the 6 new quality measures, and the 2 re-proposed quality measures, the request is not expected to be submitted to OMB for formal review and approval since we estimate less than 2 requests (total) per year. Since we estimate fewer than ten respondents annually, the information collection requirement and associated burden is not subject as stated in the implementing regulations of the PRA (5 CFR 1320.3(c)).

As discussed in section VIII.N of this proposed rule, this rule proposes to add a previously finalized process that will enable IRFs to request reconsiderations of our initial non-compliance decision in the event that it believes that it was incorrectly identified as being subject to the 2-percentage point reduction to its annual increase factor due to non-compliance with the IRF QRP reporting requirements. We believe the reconsideration and appeals requirements and the associated burden would be incurred subsequent to an administrative action. In accordance with the implementing regulations for the PRA (5 CFR 1320.4(a)(2) and (c)), the burden associated with any information collected subsequent to the administrative action is exempt from the requirements of the PRA.

If you comment on these information collection and recordkeeping requirements, please submit your comments *electronically* as specified in the **ADDRESSES** section of this proposed rule.

## X. Response to Public Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

## XI. Regulatory Impact Analysis

### *A. Statement of Need*

This proposed rule updates the IRF prospective payment rates for FY 2016 as required under section 1886(j)(3)(C) of the Act. It responds to section 1886(j)(5) of the Act, which requires the Secretary to publish in the **Federal Register** on or before the August 1 that precedes the start of each fiscal year, the classification and weighting factors for the IRF PPS's case-mix groups and a description of the methodology and data used in computing the prospective payment rates for that fiscal year.

This proposed rule implements sections 1886(j)(3)(C) and (D) of the Act. Section 1886(j)(3)(C)(ii)(I) of the Act requires the Secretary to apply a multi-factor productivity adjustment to the market basket increase factor, and to apply other adjustments as defined by the Act. The productivity adjustment applies to FYs from 2012 forward. The other adjustments apply to FYs 2010 through 2019.

This proposed rule also adopts some policy changes within the statutory discretion afforded to the Secretary under section 1886(j) of the Act. We propose to adopt an IRF-specific market basket, phase in the revised wage index changes, and update quality measures and reporting requirements under the IRF quality reporting program.

### *B. Overall Impacts*

We have examined the impacts of this proposed rule as required by Executive Order 12866 (September 30, 1993, Regulatory Planning and Review), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (September 19, 1980, Pub. L. 96–354) (RFA), section 1102(b) of the Act, section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), and the Congressional Review Act (5 U.S.C. 804(2)).

Executive 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. A regulatory impact analysis (RIA) must be prepared for a major final rule with economically significant effects ($100 million or more in any 1 year). We estimate the total impact of the proposed policy updates described in this proposed rule by comparing the estimated payments in FY 2016 with those in FY 2015. This analysis results in an estimated $130 million increase for FY 2016 IRF PPS payments. As a result, this proposed rule is designated as economically ''significant'' under section 3(f)(1) of Executive Order 12866, and hence a major rule under the Congressional Review Act. Also, the rule has been reviewed by OMB.

The Regulatory Flexibility Act (RFA) requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most IRFs and most other providers and suppliers are small entities, either by having revenues of $7.5 million to $38.5 million or less in any 1 year depending on industry classification, or by being nonprofit organizations that are not dominant in their markets. (For details, see the Small Business Administration's final rule that set forth size standards for health care industries, at 65 FR 69432 at *http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf,* effective March 26, 2012 and updated on July 14, 2014.) Because we lack data on individual hospital receipts, we cannot determine the number of small proprietary IRFs or the proportion of IRFs' revenue that is derived from Medicare payments. Therefore, we assume that all IRFs (an approximate total of 1,100 IRFs, of which approximately 60 percent are nonprofit facilities) are considered small entities and that Medicare payment constitutes the majority of their revenues. The

Department of Health and Human Services generally uses a revenue impact of 3 to 5 percent as a significance threshold under the RFA. As shown in Table 24, we estimate that the net revenue impact of this proposed rule on all IRFs is to increase estimated payments by approximately 1.7 percent. However, we find that certain individual IRF providers would be expected to experience revenue impacts greater than 3 percent. We estimate that approximately 3 IRFs that would transition from urban to rural status as a result of the changes to the delineation of CBSAs issued in OMB Bulletin No. 13–01 would gain the 14.9 percent rural adjustment, and would therefore experience net increases in IRF PPS payments of 15.2 percent. As a result, we anticipate this proposed rule will have a net positive impact on a substantial number of small entities. Medicare Administrative Contractors are not considered to be small entities. Individuals and states are not included in the definition of a small entity.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds. As discussed in detail below, the rates and policies set forth in this proposed rule will not have a significant impact (not greater than 3 percent) on a substantial number of rural hospitals based on the data of the 145 rural units and 12 rural hospitals in our database of 1,132 IRFs for which data were available.

Section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–04, enacted on March 22, 1995) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2015, that threshold level is approximately $144 million. This proposed rule will not mandate spending costs on state, local, or tribal governments, in the aggregate, or by the private sector, of greater than $144 million.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a final rule that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has federalism implications. As stated, this proposed rule will not have a substantial effect on state and local governments, preempt state law, or otherwise have a federalism implication.

*C. Detailed Economic Analysis*

1. Basis and Methodology of Estimates

This proposed rule sets forth proposed policy changes and updates to the IRF PPS rates contained in the FY 2015 IRF PPS final rule (79 FR 45872). Specifically, this proposed rule introduces an IRF-specific market basket. This proposed rule also updates the CMG relative weights and average length of stay values, the wage index, and the outlier threshold for high-cost cases. This proposed rule applies a MFP adjustment to the FY 2016 IRF market basket increase factor in accordance with section 1886(j)(3)(C)(ii)(I) of the Act, and a 0.2 percentage point reduction to the FY 2016 IRF market basket increase factor in accordance with sections 1886(j)(3)(C)(ii)(II) and –(D)(iv) of the Act. Further, this proposed rule proposes revisions to the IRF quality reporting requirements that are expected to result in some additional financial effects on IRFs. In addition, section IX of this rule discusses the implementation of the required 2 percentage point reduction of the market basket increase factor for any IRF that fails to meet the IRF quality reporting requirements, in accordance with section 1886(j)(7) of the Act.

We estimate that the impact of the proposed changes and updates described in this proposed rule will be a net estimated increase of $130 million in payments to IRF providers. This estimate does not include the implementation of the required 2 percentage point reduction of the market basket increase factor for any IRF that fails to meet the IRF quality reporting requirements (as discussed in section XI.C.9. of this proposed rule). The impact analysis in Table 24 of this proposed rule represents the projected effects of the updates to IRF PPS payments for FY 2016 compared with the estimated IRF PPS payments in FY 2015. We determine the effects by estimating payments while holding all other payment variables constant. We use the best data available, but we do not attempt to predict behavioral responses to these changes, and we do not make adjustments for future changes in such variables as number of discharges or case-mix.

We note that certain events may combine to limit the scope or accuracy of our impact analysis, because such an analysis is future-oriented and, thus, susceptible to forecasting errors because of other changes in the forecasted impact time period. Some examples could be legislative changes made by the Congress to the Medicare program that would impact program funding, or changes specifically related to IRFs. Although some of these changes may not necessarily be specific to the IRF PPS, the nature of the Medicare program is such that the changes may interact, and the complexity of the interaction of these changes could make it difficult to predict accurately the full scope of the impact upon IRFs.

In updating the rates for FY 2016, we are proposing standard annual revisions described in this proposed rule (for example, the update to the wage and market basket indexes used to adjust the federal rates). We are also implementing a productivity adjustment to the FY 2016 IRF market basket increase factor in accordance with section 1886(j)(3)(C)(ii)(I) of the Act, and a 0.2 percentage point reduction to the FY 2016 IRF market basket increase factor in accordance with sections 1886(j)(3)(C)(ii)(II) and –(D)(iv) of the Act. We estimate the total increase in payments to IRFs in FY 2016, relative to FY 2015, will be approximately $130 million.

This estimate is derived from the application of the FY 2016 IRF market basket increase factor, as reduced by a productivity adjustment in accordance with section 1886(j)(3)(C)(ii)(I) of the Act, and a 0.2 percentage point reduction in accordance with sections 1886(j)(3)(C)(ii)(II) and –(D)(iv) of the Act, which yields an estimated increase in aggregate payments to IRFs of $145 million. Furthermore, there is an additional estimated $15 million decrease in aggregate payments to IRFs due to the proposed update to the outlier threshold amount. Outlier payments are estimated to decrease under this proposal from approximately 3.2 percent in FY 2015 to 3.0 percent in FY 2016. Therefore, summed together, we estimate that these updates will result in a net increase in estimated payments of $130 million from FY 2015 to FY 2016.

The effects of the proposed updates that impact IRF PPS payment rates are shown in Table 24. The following proposed updates that affect the IRF PPS payment rates are discussed separately below:

- The effects of the proposed update to the outlier threshold amount, from approximately 3.2 percent to 3.0 percent of total estimated payments for FY 2016, consistent with section 1886(j)(4) of the Act.

• The effects of the proposed annual market basket update (using the IRF market basket) to IRF PPS payment rates, as required by section 1886(j)(3)(A)(i) and sections 1886(j)(3)(C) and –(D) of the Act, including a productivity adjustment in accordance with section 1886(j)(3)(C)(i)(I) of the Act, and a 0.2 percentage point reduction in accordance with sections 1886(j)(3)(C) and –(D) of the Act.

• The effects of applying the proposed budget-neutral labor-related share and wage index adjustment, as required under section 1886(j)(6) of the Act.

• The effects of the proposed budget-neutral changes to the CMG relative weights and average length of stay values, under the authority of section 1886(j)(2)(C)(i) of the Act.

• The total change in estimated payments based on the proposed FY 2016 payment changes relative to the estimated FY 2015 payments.

2. Description of Table 24

Table 24 categorizes IRFs by geographic location, including urban or rural location, and location for CMS's 9 census divisions (as defined on the cost report) of the country. In addition, the table divides IRFs into those that are separate rehabilitation hospitals (otherwise called freestanding hospitals in this section), those that are rehabilitation units of a hospital (otherwise called hospital units in this section), rural or urban facilities, ownership (otherwise called for-profit, non-profit, and government), by teaching status, and by disproportionate share patient percentage (DSH PP). The top row of Table 24 shows the overall impact on the 1,132 IRFs included in the analysis.

The next 12 rows of Table 24 contain IRFs categorized according to their geographic location, designation as either a freestanding hospital or a unit of a hospital, and by type of ownership; all urban, which is further divided into urban units of a hospital, urban freestanding hospitals, and by type of ownership; and all rural, which is further divided into rural units of a hospital, rural freestanding hospitals, and by type of ownership. There are 975 IRFs located in urban areas included in our analysis. Among these, there are 739 IRF units of hospitals located in urban areas and 236 freestanding IRF hospitals located in urban areas. There are 157 IRFs located in rural areas included in our analysis. Among these, there are 145 IRF units of hospitals located in rural areas and 12 freestanding IRF hospitals located in rural areas. There are 403 for-profit IRFs. Among these, there are 348 IRFs in urban areas and 55 IRFs in rural areas. There are 658 non-profit IRFs. Among these, there are 566 urban IRFs and 92 rural IRFs. There are 71 government-owned IRFs. Among these, there are 61 urban IRFs and 10 rural IRFs.

The remaining four parts of Table 24 show IRFs grouped by their geographic location within a region, by teaching status, and by DSH PP. First, IRFs located in urban areas are categorized for their location within a particular one of the nine Census geographic regions. Second, IRFs located in rural areas are categorized for their location within a particular one of the nine Census geographic regions. In some cases, especially for rural IRFs located in the New England, Mountain, and Pacific regions, the number of IRFs represented is small. IRFs are then grouped by teaching status, including non-teaching IRFs, IRFs with an intern and resident to average daily census (ADC) ratio less than 10 percent, IRFs with an intern and resident to ADC ratio greater than or equal to 10 percent and less than or equal to 19 percent, and IRFs with an intern and resident to ADC ratio greater than 19 percent. Finally, IRFs are grouped by DSH PP, including IRFs with zero DSH PP, IRFs with a DSH PP less than 5 percent, IRFs with a DSH PP between 5 and less than 10 percent, IRFs with a DSH PP between 10 and 20 percent, and IRFs with a DSH PP greater than 20 percent.

The estimated impacts of each policy described in this proposed rule to the facility categories listed are shown in the columns of Table 24. The description of each column is as follows:

• Column (1) shows the facility classification categories.

• Column (2) shows the number of IRFs in each category in our FY 2014 analysis file.

• Column (3) shows the number of cases in each category in our FY 2014 analysis file.

• Column (4) shows the estimated effect of the proposed adjustment to the outlier threshold amount.

• Column (5) shows the estimated effect of the proposed update to the IRF PPS payment rates, which includes a productivity adjustment in accordance with section 1886(j)(3)(C)(ii)(I) of the Act, and a 0.2 percentage point reduction in accordance with sections 1886(j)(3)(C)(ii)(II) and –(D)(iv) of the Act.

• Column (6) shows the estimated effect of the proposed update to the IRF labor-related share and wage index, in a budget-neutral manner. This represents the effect of using the most recent wage data available, without taking into account the revised OMB delineations. That is, the impact represented in this column is solely that of updating from the FY 2015 wage index to the FY 2016 wage index without any changes to the OMB delineations.

• Column (7) shows the estimated effect of adopting the updated OMB delineations for wage index purposes for FY 2016 with the proposed blended FY 2016 wage index.

• Column (8) shows the estimated effect of applying the adjustment factor to payments to IRFs in rural areas. It includes the proposed 3 year budget-neutral phase-out of the rural adjustment for rural IRFs that are becoming urban IRFs due to the revised OMB delineations.

• Column (9) shows the estimated effect of the proposed update to the CMG relative weights and average length of stay values, in a budget-neutral manner.

• Column (10) compares our estimates of the payments per discharge, incorporating all of the proposed policies reflected in this proposed rule for FY 2016 to our estimates of payments per discharge in FY 2015.

The average estimated increase for all IRFs is approximately 1.7 percent. This estimated net increase includes the effects of the proposed IRF market basket increase factor for FY 2016 of 2.7 percent, reduced by a productivity adjustment of 0.6 percentage point in accordance with section 1886(j)(3)(C)(ii)(I) of the Act, and further reduced by 0.2 percentage point in accordance with sections 1886(j)(3)(C)(ii)(II) and (D)(iv) of the Act. It also includes the approximate 0.2 percent overall decrease in estimated IRF outlier payments from the proposed update to the outlier threshold amount. Since we are making the proposed updates to the IRF wage index and the CMG relative weights in a budget-neutral manner, they will not be expected to affect total estimated IRF payments in the aggregate. However, as described in more detail in each section, they will be expected to affect the estimated distribution of payments among providers.

TABLE 24—IRF IMPACT TABLE FOR FY 2016 (COLUMNS 4 THROUGH 10 IN PERCENTAGE)

| Facility Classification | Number of IRFs | Number of cases | Outlier | IRF market basket [1] | Wage index | CBSA | Change in rural adjustment [2] | CMG weights | Total percent change |
|---|---|---|---|---|---|---|---|---|---|
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | (9) | (10) |
| Total | 1,132 | 390,748 | −0.2 | 1.9 | 0.0 | 0.0 | 0.0 | 0.0 | 1.7 |
| Urban unit | 739 | 179,466 | −0.4 | 1.9 | 0.1 | 0.0 | 0.0 | 0.0 | 1.6 |
| Rural unit | 145 | 22,721 | −0.3 | 1.9 | 0.3 | −0.2 | 0.3 | 0.0 | 2.0 |
| Urban hospital | 236 | 184,416 | −0.1 | 1.9 | −0.1 | 0.1 | 0.0 | −0.1 | 1.8 |
| Rural hospital | 12 | 4,145 | 0.0 | 1.9 | 0.2 | −0.7 | 0.0 | −0.1 | 1.3 |
| Urban For-Profit | 348 | 174,797 | −0.1 | 1.9 | 0.0 | 0.0 | 0.0 | 0.0 | 1.7 |
| Rural For-Profit | 55 | 9,810 | −0.2 | 1.9 | 0.1 | −0.4 | 0.2 | 0.0 | 1.6 |
| Urban Non-Profit | 566 | 170,965 | −0.3 | 1.9 | 0.0 | 0.1 | 0.0 | 0.0 | 1.7 |
| Rural Non-Profit | 92 | 15,588 | −0.3 | 1.9 | 0.4 | −0.3 | 0.3 | 0.1 | 2.1 |
| Urban Government | 61 | 18,120 | −0.4 | 1.9 | −0.3 | 0.0 | −0.1 | 0.1 | 1.2 |
| Rural Government | 10 | 1,468 | −0.3 | 1.9 | 0.3 | −0.4 | 0.0 | 0.1 | 1.7 |
| Urban | 975 | 363,882 | −0.2 | 1.9 | 0.0 | 0.0 | 0.0 | 0.0 | 1.7 |
| Rural | 157 | 26,866 | −0.3 | 1.9 | 0.3 | −0.3 | 0.3 | 0.0 | 1.9 |
| CBSA Change | | | | | | | | | |
| Urban to Urban | 956 | 359,798 | −0.2 | 1.9 | 0.0 | 0.0 | 0.0 | 0.0 | 1.7 |
| Rural to Rural | 154 | 26,278 | −0.3 | 1.9 | 0.3 | −0.3 | 0.0 | 0.0 | 1.6 |
| Urban to Rural | 3 | 588 | −0.6 | 1.9 | 0.8 | 0.8 | 11.7 | 0.1 | 15.2 |
| Rural to Urban | 19 | 4,084 | −0.3 | 1.9 | 0.7 | 1.3 | −3.7 | 0.0 | −0.2 |
| Urban by region | | | | | | | | | |
| Urban New England | 31 | 16,767 | −0.1 | 1.9 | 0.7 | −0.2 | 0.0 | 0.0 | 2.3 |
| Urban Middle Atlantic | 143 | 57,893 | −0.2 | 1.9 | 0.1 | 0.4 | 0.0 | 0.0 | 2.2 |
| Urban South Atlantic | 146 | 69,551 | −0.2 | 1.9 | −0.3 | −0.1 | −0.1 | 0.0 | 1.2 |
| Urban East North Central | 173 | 51,589 | −0.3 | 1.9 | 0.2 | −0.1 | 0.0 | 0.0 | 1.8 |
| Urban East South Central | 53 | 24,883 | −0.1 | 1.9 | −0.3 | −0.1 | 0.0 | 0.0 | 1.4 |
| Urban West North Central | 73 | 18,970 | −0.3 | 1.9 | 0.1 | 0.0 | 0.0 | 0.0 | 1.7 |
| Urban West South Central | 178 | 73,231 | −0.2 | 1.9 | −0.7 | 0.0 | 0.0 | 0.0 | 1.0 |
| Urban Mountain | 77 | 25,627 | −0.2 | 1.9 | 0.7 | −0.1 | 0.0 | 0.0 | 2.3 |
| Urban Pacific | 101 | 25,371 | −0.4 | 1.9 | 0.8 | −0.1 | 0.0 | 0.0 | 2.2 |
| Rural by region | | | | | | | | | |
| Rural New England | 5 | 1,270 | −0.2 | 1.9 | 0.9 | −0.1 | 0.0 | 0.0 | 2.5 |
| Rural Middle Atlantic | 12 | 1,788 | −0.2 | 1.9 | 2.0 | −2.0 | 0.0 | 0.1 | 1.7 |
| Rural South Atlantic | 17 | 4,268 | −0.2 | 1.9 | 0.2 | −0.3 | 0.3 | 0.0 | 1.9 |
| Rural East North Central | 31 | 5,139 | −0.3 | 1.9 | −0.1 | 0.1 | 1.0 | 0.0 | 2.7 |
| Rural East South Central | 18 | 3,228 | −0.2 | 1.9 | 0.0 | −0.2 | 0.0 | 0.0 | 1.6 |
| Rural West North Central | 23 | 2,847 | −0.4 | 1.9 | 0.4 | −0.1 | 0.0 | 0.1 | 1.9 |
| Rural West South Central | 42 | 7,414 | −0.2 | 1.9 | 0.3 | −0.5 | 0.0 | 0.0 | 1.4 |
| Rural Mountain | 7 | 732 | −1.0 | 1.9 | −0.2 | −0.1 | 0.0 | 0.0 | 0.7 |
| Rural Pacific | 2 | 180 | −1.2 | 1.9 | 0.8 | 0.0 | 0.0 | −0.1 | 1.4 |
| Teaching status | | | | | | | | | |
| Non-teaching | 1,022 | 345,856 | −0.2 | 1.9 | 0.0 | 0.0 | 0.0 | 0.0 | 1.7 |
| Resident to ADC less than 10% | 63 | 30,362 | −0.2 | 1.9 | 0.1 | −0.2 | 0.0 | 0.1 | 1.7 |
| Resident to ADC 10%–19% | 35 | 12,804 | −0.5 | 1.9 | 0.2 | 0.3 | 0.0 | 0.0 | 1.9 |
| Resident to ADC greater than 19% | 12 | 1,726 | −0.1 | 1.9 | −0.1 | −0.3 | 0.0 | −0.1 | 1.3 |
| Disproportionate share patient percentage (DSH PP) | | | | | | | | | |
| DSH PP = 0% | 46 | 11,760 | −0.4 | 1.9 | −0.1 | −0.1 | 0.0 | 0.0 | 1.4 |
| DSH PP <5% | 186 | 68,487 | −0.2 | 1.9 | 0.0 | 0.4 | 0.0 | 0.0 | 2.0 |
| DSH PP 5%–10% | 317 | 130,224 | −0.2 | 1.9 | −0.1 | −0.1 | 0.0 | 0.0 | 1.5 |
| DSH PP 10%–20% | 356 | 121,758 | −0.2 | 1.9 | 0.2 | −0.1 | 0.0 | 0.0 | 1.8 |
| DSH PP greater than 20% | 227 | 58,519 | −0.3 | 1.9 | 0.1 | −0.1 | 0.0 | 0.0 | 1.6 |

[1] This column reflects the impact of the IRF market basket increase factor for FY 2016 (2.7 percent), reduced by 0.6 percentage point for the productivity adjustment as required by section 1886(j)(3)(C)(ii)(I) of the Act, and reduced by 0.2 percentage point in accordance with paragraphs 1886(j)(3)(C) and (D) of the Act.

[2] Providers changing from urban to rural status will receive a 14.9 percent rural adjustment, and providers changing from rural to urban status will receive 2/3 of the 14.9 percent rural adjustment in FY 2016. For those changing from urban to rural, the total impact shown is affected by the outlier threshold increasing, which results in smaller outlier payments as part of the total payments. For those changing from rural to urban status, the outlier threshold is being lowered by 2/3 of 14.9 percent, which results in more providers being eligible for outlier payments, increasing the outlier portion of their total payments.

3. Impact of the Proposed Update to the Outlier Threshold Amount

The estimated effects of the proposed update to the outlier threshold adjustment are presented in column 4 of Table 24. In the FY 2015 IRF PPS final rule (79 FR 45872), we used FY 2013 IRF claims data (the best, most complete data available at that time) to set the outlier threshold amount for FY 2015 so that estimated outlier payments would

equal 3 percent of total estimated payments for FY 2015.

For this proposed rule, we are updating our analysis using FY 2014 IRF claims data and, based on this updated analysis, we estimate that IRF outlier payments as a percentage of total estimated IRF payments are 3.2 percent in FY 2015. Thus, we propose to adjust the outlier threshold amount in this proposed rule to set total estimated outlier payments equal to 3 percent of total estimated payments in FY 2016. The estimated change in total IRF payments for FY 2016, therefore, includes an approximate 0.2 percent decrease in payments because the estimated outlier portion of total payments is estimated to decrease from approximately 3.2 percent to 3 percent.

The impact of this proposed outlier adjustment update (as shown in column 4 of Table 24) is to decrease estimated overall payments to IRFs by about 0.2 percent. We estimate the largest decrease in payments from the update to the outlier threshold amount to be 1.2 percent for rural IRFs in the Pacific region.

4. Impact of the Proposed Market Basket Update to the IRF PPS Payment Rates

The estimated effects of the proposed market basket update to the IRF PPS payment rates are presented in column 5 of Table 24. In the aggregate the proposed update would result in a net 1.9 percent increase in overall estimated payments to IRFs. This net increase reflects the estimated IRF market basket increase factor for FY 2016 of 2.7 percent, reduced by a 0.6 percentage point productivity adjustment as required by section 1886(j)(3)(C)(ii)(I) of the Act, and further reduced by the 0.2 percentage point in accordance with sections 1886(j)(3)(C)(ii)(II) and 1886(j)(3)(D)(iv) of the Act. The market basket increase factor based on the IRF market basket (2.7 percent) is currently estimated to be 0.1 percentage point lower than the RPL market basket (2.8 percent). This lower update is primarily due to the lower cost weights for Compensation and Pharmaceuticals in the proposed IRF market basket.

5. Impact of the Proposed CBSA Wage Index and Labor-Related Share

In column 6 of Table 24, we present the effects of the proposed budget-neutral update of the wage index and labor-related share without taking into account the revised OMB delineations, which are presented separately in the next column. The proposed changes to the wage index and the labor-related share are discussed together because the wage index is applied to the labor-related share portion of payments, so the proposed changes in the two have a combined effect on payments to providers. As discussed in section V.D. of this proposed rule, we propose to increase the labor-related share from 69.294 percent in FY 2015 to 69.6 percent in FY 2016.

6. Impact of the Updated OMB Delineations

In column 7 of Table 24, we present the effects of the revised OMB delineations, and the proposed transition to the new delineations using the blended wage index.

In the aggregate, since these proposed updates to the wage index and the labor-related share are applied in a budget-neutral manner as required under section 1886(j)(6) of the Act, we do not estimate that these proposed updates will affect overall estimated payments to IRFs. However, we estimate that these proposed updates will have small distributional effects. For example, we estimate the largest increase in payments from the update to the CBSA wage index and labor-related share of 0.4 percent for urban IRFs in the Middle Atlantic region. We estimate the largest decrease in payments from the proposed update to the CBSA wage index and labor-related share to be a 2.0 percent decrease for rural IRFs in the Middle Atlantic region.

7. Impact of the Phase-Out of the Rural Adjustment for IRFs Transitioning From Rural to Urban Designations

In column 8 of Table 24, we present the effects 3-year phase-out of the rural adjustment for IRFs transitioning from rural to urban status under the new CBSA delineations. Under the IRF PPS, IRFs located in rural areas receive a 14.9 percent adjustment to their payment rates to account for the higher costs incurred in treating beneficiaries in rural areas. Under the new CBSA delineations, we estimate that 19 IRFs will transition from rural to urban status for purposes of the IRF PPS wage index adjustment in FY 2016. Without the proposed phase-out of the rural adjustment, these 19 IRFs would experience an automatic 14.9 percent decrease in payments as a result of this change from rural to urban status in FY 2016. To mitigate the effects of this relatively large decrease in payments, we are proposing to phase-out the rural adjustment for these providers over a 3-year period, as discussed in more detail in section V. of this proposed rule. Thus, we are proposing that these IRF would receive 2/3 of the rural adjustment in FY 2016, 1/3 of the rural adjustment in FY 2017, and none of the rural adjustment in FY 2018, thus giving these IRFs time to adjust to the reduced payments.

Column 8 shows the effect on providers of this budget-neutral phase-out of the rural adjustment for IRFs transitioning from rural to urban status in FY 2016. Under the proposed policy, these providers would only experience a reduction in payments of 1/3 of the 14.9 percent rural adjustment in FY 2016. As we propose to implement this phase-out in a budget-neutral manner, it does not affect aggregate payments to IRFs, but we estimate that this policy would have small effects on the distribution of payments to IRFs. The largest increase in payments to IRFs as a result of the interaction of the rural adjustment with the changes to the CBSA delineations is an 11.7 percent increase to 3 IRFs that transition from urban to rural status under the new CBSA delineations. These 3 IRFs will receive the full 14.9 percent rural adjustment for FY 2016. The largest decrease in payments to IRFs as a result of this proposed policy change is a 3.7 percent decrease in payments to IRFs that transition from rural to urban status under the new CBSA delineations. This is a result of these providers only receiving 2/3 of the 14.9 percent rural adjustment for FY 2016. We note that the decrease in payments to these providers is substantially lessened from what it otherwise would have been as a result of the proposed phase-out of the rural adjustment for these IRFs.

8. Impact of the Proposed Update to the CMG Relative Weights and Average Length of Stay Values

In column 9 of Table 24, we present the effects of the proposed budget-neutral update of the CMG relative weights and average length of stay values. In the aggregate, we do not estimate that these updates will affect overall estimated payments of IRFs. However, we do expect these updates to have small distributional effects. The largest estimated increase in payments is a 0.1 percent increase for IRFs in the rural Middle Atlantic and rural West North Central regions. Rural IRFs in the Pacific region are estimated to experience a 0.1 percent decrease in payments due to the CMG relative weights change.

9. Effects of Proposed Requirements for the IRF QRP for FY 2018

In accordance with section 1886(j)(7) of the Act, we will implement a 2 percentage point reduction in the FY 2016 increase factor for IRFs that have failed to report the required quality reporting data to us during the most

recent IRF quality reporting period. In section VIII.P.A of this proposed rule, we discuss the proposed method for applying the 2 percentage point reduction to IRFs that fail to meet the IRF QRP requirements. At the time that this analysis was prepared, 91, or approximately 8 percent, of the 1166 active Medicare-certified IRFs did not receive the full annual percentage increase for the FY 2015 annual payment update determination. Information is not available to determine the precise number of IRFs that will not meet the requirements to receive the full annual percentage increase for the FY 2016 payment determination.

In section VIII.L of this proposed rule, we discuss our proposal to suspend the previously finalized data accuracy validation policy for IRFs. While we cannot estimate the increase in the number of IRFs that will meet IRF QRP compliance standards at this time, we believe that this number will increase due to the temporary suspension of this policy. Thus, we estimate that the suspension of this policy will decrease impact on overall IRF payments, by increasing the rate of compliance, in addition to decreasing the cost of the IRF QRP to each IRF provider by approximately $47,320 per IRF, which was the estimated cost to each IRF provider to the implement the previously finalized policy.

In section VIII.F of this proposed rule, we are proposing 2 quality measures that have already been adopted for the IRF QRP: (1) All-Cause Unplanned Readmission Measure for 30 Days Post Discharge from IRFs (NQF #2502), to establish the newly NQF-endorsed status of this measures; and (2) Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (NQF #0678), to establish its use as a cross-setting measure that addresses the domain of skin integrity, as required by the IMPACT Act of 2014. The All-Cause Unplanned Readmission Measure for 30 Days Post-Discharge from IRFs is a Medicare claims-based measure; because claims-based measures can be calculated based on data that are already reported to the Medicare program for payment purposes, we believe there will be no additional impact as a result of this measure. We also believe that there will be no additional burden associated with our proposal of the measure Percent of Residents or Patients with Pressure Ulcers That Are New or Worsened (NQF #0678), which was proposed to establish its use as a cross-setting measure that meets the IMPACT Act requirement of adding a quality measure that stratifies the domain of skin integrity, as IRFs are already submitting quality data related to this measure.

In section VIII.G of this proposed rule, we are also proposing to adopt six new quality measures. The six proposed quality measures are: (1) An application of Percent of Residents Experiencing One or More Falls with Major Injury (Long Stay) (NQF #0674); (2) an application of Percent of LTCH Patients with an Admission and Discharge Functional Assessment and a Care Plan That Addresses Function (NQF #2631; under review); (3) IRF Functional Outcome Measure: Change in Self-Care Score for Medical Rehabilitation Patients (NQF #2633; under review); (4) IRF Functional Outcome Measure: Change in Mobility Score for Medical Rehabilitation Patients (NQF #2634; under review); (5) IRF Functional Outcome Measure: Discharge Self-Care Score for Medical Rehabilitation Patients (NQF #2635; under review); and (6) IRF Functional Outcome Measure: Discharge Mobility Score for Medical Rehabilitation Patients (NQF #2636; under review). Additionally, we propose that data for these six measures will be collected and reported using the IRF–PAI (version 1.4). The total cost related to the six proposed measures is estimated at $21,239.33 per IRF annually, or $24,042,291.01 for all IRFs annually. This is an average increase of 124 percent to all IRF providers over the burden discussed in the FY 2015 IRF PPS Final Rule, which included all quality measures that IRFs are required to report under the QRP with the exception of those new quality measures six proposed in this proposed rule.

We intend to continue to closely monitor the effects of this new quality reporting program on IRF providers and help perpetuate successful reporting outcomes through ongoing stakeholder education, national trainings, IRF provider announcements, Web site postings, CMS Open Door Forums, and general and technical help desks.

*D. Alternatives Considered*

The following is a discussion of the alternatives considered for the IRF PPS updates contained in this proposed rule.

Section 1886(j)(3)(C) of the Act requires the Secretary to update the IRF PPS payment rates by an increase factor that reflects changes over time in the prices of an appropriate mix of goods and services included in the covered IRF services. In recent years, IRF PPS payment rates have been updated by the RPL market basket. Thus, we did consider updating payments using the RPL market basket increase factor for FY 2016. However, as stated in section V of this proposed rule, we believe the use of an IRF market basket that reflects the cost structure of the universe of IRF providers is a technical improvement over the use of the RPL market basket. The RPL market basket reflects the input costs of two additional provider types: Inpatient Psychiatric Facilities and Long-term Care Hospitals; and also only included data from freestanding providers. On the other hand, the IRF market basket reflects the input costs of only IRF providers and includes the costs from both freestanding and hospital-based IRF providers. We also had indicated our intention of proposing an IRF market basket in the FY 2015 IRF proposed and final rules and received support for moving from an RPL to an IRF market basket. Based on these reasons, we propose to update payments using the IRF market basket increase factor for FY 2016. In addition, as noted previously in this proposed rule, section 1886(j)(3)(C)(ii)(I) of the Act requires the Secretary to apply a productivity adjustment to the market basket increase factor for FY 2016, and sections 1886(j)(3)(C)(ii)(II) and 1886(j)(3)(D)(iv) of the Act require the Secretary to apply a 0.2 percentage point reduction to the market basket increase factor for FY 2016. Thus, in accordance with section 1886(j)(3)(C) of the Act, we proposed to update the IRF federal prospective payments in this proposed rule by 1.9 percent (which equals the 2.7 percent estimated IRF market basket increase factor for FY 2016 reduced by a 0.6 percentage point productivity adjustment as required by section 1886(j)(3)(C)(ii)(I) of the Act and further reduced by 0.2 percentage point). If we instead proposed to use the RPL market basket, we would have proposed to update the IRF federal prospective payments by 2.0 percent (which equals the 2.8 percent estimated RPL market basket increase factor for FY 2016 reduced by a 0.6 percentage point productivity adjustment and further reduced by 0.2 percentage point).

We considered maintaining the existing CMG relative weights and average length of stay values for FY 2016. However, in light of recently available data and our desire to ensure that the CMG relative weights and average length of stay values are as reflective as possible of recent changes in IRF utilization and case mix, we believe that it is appropriate to propose to update the CMG relative weights and average length of stay values at this time to ensure that IRF PPS payments continue to reflect as accurately as possible the current costs of care in IRFs.

We considered updating facility-level adjustment factors for FY 2016. However, as discussed in more detail in the FY 2015 final rule (79 FR 45872), we believe that freezing the facility-level adjustments at FY 2014 levels for FY 2015 and all subsequent years (unless and until the data indicate that they need to be further updated) will allow us an opportunity to monitor the effects of the substantial changes to the adjustment factors for FY 2014, and will allow IRFs time to adjust to the previous changes.

We considered maintaining the existing outlier threshold amount for FY 2016. However, analysis of updated FY 2014 data indicates that estimated outlier payments would be higher than 3 percent of total estimated payments for FY 2016, by approximately 0.2 percent, unless we updated the outlier threshold amount. Consequently, we propose adjusting the outlier threshold amount in this proposed rule to reflect a 0.2 percent decrease thereby setting the total outlier payments equal to 3 percent, instead of 3.2 percent, of aggregate estimated payments in FY 2016.

We considered a number of options for implementing the new CBSA designations. Overall, we believe implementing the new OMB delineations would result in wage index values being more representative of the actual costs of labor in a given area. Further, we recognize that some providers (10 percent) would have a higher wage index due to our proposed implementation of the new labor market area delineations. However, we also recognize that more providers (16 percent) would experience decreases in wage index values as a result of our proposed implementation of the new labor market area delineations. In prior years, we have provided for transition periods when adopting changes that have significant payment implications, particularly large negative impacts. As discussed in the FY 2006 IRF PPS final rule (70 FR 47921 through 47926), we evaluated several options to ease the transition to the new CBSA system.

In implementing the new CBSA delineations for FY 2016, we continue to have similar concerns as those expressed in the FY 2006 IRF PPS final rule. While we believe that implementing the latest OMB labor market area delineations would create a more accurate wage index system, we recognize that IRFs may experience decreases in their wage index as a result of the labor market area changes. Our analysis for the FY 2016 IRF PPS proposed rule indicates that a majority of IRFs either expect no change in the wage index or an increase in the wage index based on the new CBSA delineations. However, we found that 188 facilities will experience a decline in their wage index with 29 facilities experiencing a decline of 5 percent or more based on the CBSA changes. Therefore, we believe it would be appropriate to consider, as we did in FY 2006, whether or not a transition period should be used to implement these proposed changes to the wage index.

We considered having no transition period and fully implementing the proposed new OMB delineations beginning in FY 2016. This would mean that we would adopt the revised OMB delineations for all IRF providers on October 1, 2015. However, this would not provide any time for IRF providers to adapt to the new OMB delineations. As previously discussed, more IRFs would experience a decrease in wage index due to implementation of the proposed new OMB delineations than would experience an increase. Thus, we believe that it would be appropriate to provide for a transition period to mitigate the resulting short-term instability and negative impacts on these IRF providers, and to provide time for these IRFs to adjust to their new labor market area delineations.

Furthermore, in light of the comments received during the FY 2006 rulemaking cycle on our proposal in the FY 2006 IRF PPS proposed rule (70 FR 30238 through 30240) to adopt the new CBSA definitions without a transition period, we continue to believe that a transition period is appropriate. Therefore, we propose a similar transition methodology to that used in FY 2006. Specifically, for the FY 2016 IRF PPS, we are proposing to implement a budget-neutral one-year transition policy. We are proposing that all IRF providers would receive a one-year blended wage index using 50 percent of their FY 2016 wage index based on the proposed new OMB delineations and 50 percent of their FY 2016 wage index based on the OMB delineations used in FY 2015. We are proposing to apply this one-year blended wage index in FY 2016 for all geographic areas to assist providers in adapting to these proposed changes. We believe a 1-year, 50/50 blend would mitigate the short-term instability and negative payment impacts due to the proposed implementation of the new OMB delineations. This transition policy would be for a one-year period, going into effect October 1, 2016, and continuing through September 30, 2017.

For the reasons previously discussed and based on similar concerns to those we expressed during the FY 2006 rulemaking cycle to the proposed adoption of the new CBSA definitions, we are proposing to implement a three-year budget-neutral phase-out of the rural adjustment for the group of IRFs that during FY 2015 were designated as rural and for FY 2016 are designated as urban under the new CBSA system. This is in addition to implementing a one-year blended wage index for all IRFs. We considered having no transition, but found that a multi-year transition policy would best provide a sufficient buffer for rural IRFs that may experience a reduction in payments due to being designated as urban. We believe that the incremental reduction of the FY 2015 rural adjustment is appropriate to mitigate a significant reduction in per case payment. Alternative timeframes we considered for phasing out the rural adjustment for IRFs which would transition from rural to urban status in FY 2016, but believe that a three-year budget-neutral phase-out of the rural adjustment would appropriately mitigate the adverse payment impacts for these IRFs while also ensuring that payment rates for these providers are set accurately and appropriately.

*E. Accounting Statement*

As required by OMB Circular A–4 (available at *http://www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a004/a-4.pdf*), in Table 25, we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of this final rule. Table 25 provides our best estimate of the increase in Medicare payments under the IRF PPS as a result of the proposed updates presented in this proposed rule based on the data for 1,132 IRFs in our database. In addition, Table 25 presents the costs associated with the proposed new IRF quality reporting program for FY 2016.

TABLE 25—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES

| Category | Transfers |
|---|---|
| **Change in Estimated Transfers from FY 2015 IRF PPS to FY 2016 IRF PPS** | |
| Annualized Monetized Transfers | $130 million. |
| From Whom to Whom? | Federal Government to IRF Medicare Providers. |
| **Category** | **Costs** |
| **FY 2016 Cost to Updating the Quality Reporting Program** | |
| Cost for IRFs to Submit Data for the Quality Reporting Program | $24,042,291.01. |

*F. Conclusion*

Overall, the estimated payments per discharge for IRFs in FY 2016 are projected to increase by 1.7 percent, compared with the estimated payments in FY 2015, as reflected in column 10 of Table 24. IRF payments per discharge are estimated to increase by 1.7 percent in urban areas and by 1.9 percent in rural areas, compared with estimated FY 2015 payments. Payments per discharge to rehabilitation units are estimated to increase 1.6 percent in urban areas and 2.0 in rural areas. Payments per discharge to freestanding rehabilitation hospitals are estimated to increase 1.8 percent in urban areas and 1.3 percent in rural areas.

Overall, IRFs are estimated to experience a net increase in payments as a result of the proposed policies in proposed rule. The largest payment increase is estimated to be a 2.7 percent increase for rural IRFs located in the East North Central region.

In accordance with the provisions of Executive Order 12866, this proposed rule was reviewed by the Office of Management and Budget.

**List of Subjects in 42 CFR Part 412**

Administrative practice and procedure, Health facilities, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services proposes to amend 42 CFR chapter IV as set forth below:

## PART 412—PROSPECTIVE PAYMENT SYSTEMS FOR INPATIENT HOSPITAL SERVICES

■ 1. The authority citation for part 412 continues to read as follows:

**Authority:** Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh), sec. 124 of Pub. L. 106–113 (113 Stat. 1501A–332), sec. 1206 of Pub. L. 113–67, and sec. 112 of Pub. L. 113–93.

■ 2. Section 412.634 is added to read as follows:

**§ 412.634 Requirements under the Inpatient Rehabilitation Facility (IRF) Quality Reporting Program (QRP).**

(a) *Participation.* (1) An IRF must begin reporting data under the IRF QRP requirements no later than the first day of the calendar quarter subsequent to 30 days after the date on its CMS Certification Number (CCN) notification letter, which designates the IRF as operating in the Certification and Survey Provider Enhanced Reports (CASPER) system.

(2) [Reserved]

(b) *Submission requirements and payment impact.* (1) IRFs must submit to CMS data on measures specified under sections 1886(j)(7)(D), 1899B(c)(1), and 1899B(d)(1) of the Act, as applicable. Sections 1886(j)(7)(C) and (j)(7)(F)(iii) of the Act require each IRF to submit data on the specified measures in the form and manner, and at a time, specified by the Secretary.

(2) As required by section 1886(j)(7)(A)(i) of the Act, any IRF that does not submit data in accordance with section 1886(j)(7)(C) and (F) of the Act for a given fiscal year will have its annual update to the standard Federal rate for discharges for the IRF during the fiscal year reduced by two percentage points.

(c) *Exception and extension requirements.* (1) An IRF may request and CMS may grant exceptions or extensions to the quality data reporting requirements, for one or more quarters, when there are certain extraordinary circumstances beyond the control of the IRF.

(2) An IRF must request an exception or extension within 30 days of the date that the extraordinary circumstances occurred.

(3) Exception and extension requests must be submitted to CMS from the IRF by sending an email to *IRFQRPReconsiderations@cms.hhs.gov* containing all of the following information:

(i) IRF CMS Certification Number (CCN).

(ii) IRF Business Name.

(iii) IRF Business Address.

(iv) CEO or CEO-designated personnel contact information including name, telephone number, title, email address, and mailing address. (The address must be a physical address, not a post office box.)

(v) IRF's reason for requesting the exception or extension.

(vi) Evidence of the impact of extraordinary circumstances, including, but not limited to, photographs, newspaper, and other media articles.

(vii) Date when the IRF believes it will be able to again submit IRF QRP data and a justification for the proposed date.

(4) CMS may grant exceptions or extensions to IRFs without a request if it is determined that one or more of the following has occurred:

(i) An extraordinary circumstance affects an entire region or locale.

(ii) A systemic problem with one of CMS's data collection systems directly affected the ability of an IRF to submit data.

(5) Email is the only form of submission that will be accepted. Any reconsideration requests received through another channel will not be considered as a valid exception or extension request.

(d) *Reconsideration.* (1) IRFs found to be non-compliant with the quality reporting requirements for a particular fiscal year will receive a letter of non-compliance through the Quality Improvement and Evaluation System Assessment Submission and Processing (QIES–ASAP) system, as well as through the United States Postal Service. IRFs must submit reconsideration requests no later than 30 calendar days after the date identified on the letter of non-compliance.

(2) Reconsideration requests must be submitted to CMS by sending an email to *IRFQRPReconsiderations@cms.hhs.gov* containing all of the following information:

(i) IRF CCN.

(ii) IRF Business Name.

(iii) IRF Business Address.

(iv) CEO or CEO-designated personnel contact information including name, telephone number, title, email address, and mailing address. (The address must be a physical address, not a post office box.)

(v) CMS identified reason(s) for non-compliance from the non-compliance letter.

(vi) Reason(s) for requesting reconsideration.

(3) The request for reconsideration must be accompanied by supporting documentation demonstrating compliance. This documentation must be submitted electronically as an attachment to the reconsideration request email. Any request for reconsideration that does not contain sufficient evidence of compliance with the IRF QRP requirements will be denied.

(4) Email is the only form of submission that will be accepted. Any reconsideration requests received through another channel will not be considered as a valid exception or extension request.

(5) The QIES–ASAP system and the United States Postal Service will be the two mechanisms used to distribute each IRF's compliance letter, as well as our final decision regarding any reconsideration request received from the IRF.

(e) *Appeals.* (1) An IRF may appeal the decision made by CMS on its reconsideration request by filing with the Provider Reimbursement Review Board (PRRB) under 42 CFR part 405, subpart R.

Dated: April 13, 2015.

**Andrew M. Slavitt,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

Dated: April 21, 2015.

**Sylvia M. Burwell,**

*Secretary, Department of Health and Human Services.*

[FR Doc. 2015–09617 Filed 4–23–15; 4:15 pm]

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Part III

## Environmental Protection Agency

40 CFR Part 62

Federal Plan Requirements for Sewage Sludge Incineration Units Constructed on or Before October 14, 2010; Proposed Rule

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 62**

**[EPA–HQ–OAR–2012–0319; FRL–9923–62–OAR]**

**RIN 2060–AR77**

## Federal Plan Requirements for Sewage Sludge Incineration Units Constructed on or Before October 14, 2010

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** On March 21, 2011, the Environmental Protection Agency (EPA) issued emissions standards for new and existing sewage sludge incineration units (SSI). This action proposes that existing SSI units implement the emission guidelines (EG) adopted on March 21, 2011, in states that do not have an approved state plan implementing the EG in place by March 21, 2012. This Federal Plan will result in emissions reductions of certain pollutants from all affected units.

**DATES:** *Comments.* Comments must be received on or before June 11, 2015.

*Public Hearing.* If anyone contacts the EPA by May 7, 2015 requesting to speak at a public hearing, the EPA will hold a public hearing on May 12, 2015.

**ADDRESSES:** Submit your comments on the Federal Plan requirements proposed rule, identified by Docket ID No. EPA–HQ–OAR–2012–0319, by one of the following methods:

- *Federal Rulemaking Portal: www.regulations.gov:* Follow the online instructions for submitting comments.
- *Email: a-and-r-Docketa@epa.gov,* Attention Docket ID No. EPA–HQ–OAR–2012–0319.
- *Facsimile:* Fax your comments to (202) 566–9744, Attention Docket ID No. EPA–HQ–OAR–2012–0319.
- *Mail:* Send your comments to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Mailcode: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–OAR–2012–0319. We request that a separate copy also be sent to the contact person identified below (see **FOR FURTHER INFORMATION CONTACT**).
- *Hand Delivery:* Deliver your comments to: EPA Docket Center (EPA/DC), EPA WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20004, Attention Docket ID No. EPA–HQ–OAR–2012–0319. Such deliveries are accepted only during the normal hours of operation (8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays) and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments on the Federal Plan requirements proposed rule to Docket ID No. EPA–HQ–OAR–2012–0319. The EPA's policy is that all comments received will be included in the public docket and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the 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 the EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption and be free of any defects or viruses.

*Public Hearing:* If a public hearing is held, it will be held at the EPA's campus located at 109 T.W. Alexander Drive in Research Triangle Park, NC. Contact Ms. Virginia Hunt at (919) 541–0832, to request a hearing, to request to speak at a public hearing or to determine if a hearing will be held. If no one contacts the EPA requesting to speak at a public hearing concerning this proposed rule by May 7, 2015, a public hearing will not be held. If a hearing is held, it will provide interested parties the opportunity to present data, views or arguments concerning the proposed action. The EPA will make every effort to accommodate all speakers who arrive and register. Because this hearing, if held, will be at U.S. government facilities, individuals planning to attend the hearing should be prepared to show valid picture identification to the security staff in order to gain access to the meeting room. Please note that the REAL ID Act, passed by Congress in 2005, established new requirements for entering federal facilities. If your driver's license is issued by Alaska, American Samoa, Arizona, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Montana, New York, Oklahoma or the state of Washington, you must present an additional form of identification to enter the federal building. Acceptable alternative forms of identification include: Federal employee badges, passports, enhanced driver's licenses and military identification cards. In addition, you will need to obtain a property pass for any personal belongings you bring with you. Upon leaving the building, you will be required to return this property pass to the security desk. No large signs will be allowed in the building, cameras may only be used outside of the building and demonstrations will not be allowed on federal property for security reasons.

The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing. Commenters should notify Ms. Hunt if they will need specific equipment, or if there are other special needs related to providing comments at the hearings. Verbatim transcripts of the hearing and written statements will be included in the docket for the rulemaking. The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearing to run either ahead of schedule or behind schedule. All details regarding a public hearing if one is held will be posted on our Web site at *http://www.epa.gov/ttn/atw/129/ssi/ssipg.html.* The hearing will be cancelled without further notice.

*Docket:* The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2012–0319. The EPA has previously established a docket for the March 21, 2011, original sewage sludge incinerator (SSI) new source performance standards (NSPS) and emissions guidelines (EG) under Docket ID No. EPA–HQ–OAR–2009–0559. All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically at *www.regulations.gov* or in hard copy at the EPA Docket Center EPA/DC, EPA WJC West Building, 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 holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Hambrick, Fuels and Incineration Group, Sector Policies and Programs Division (E143–05), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0964; fax number: (919) 541–3470; email address: *hambrick.amy@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

*Acronyms and Abbreviations.* The following acronyms and abbreviations are used in this document.

7–PAH 7-Polycyclic Aromatic Hydrocarbons
ACI Activated Carbon Injection
AG Attorney General
ANSI American National Standards Institute
ASME American Society of Mechanical Engineers
ASTM American Society of Testing and Materials
CAA Clean Air Act
CBI Confidential Business Information
Cd Cadmium
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CEMS Continuous Emissions Monitoring Systems
CFR Code of Federal Regulations
CO Carbon Monoxide
Cr Chromium
EG Emission Guidelines
EJ Environmental Justice
ERT Electronic Reporting Tool
ESP Electrostatic Precipitators
FB Fluidized Bed
FF Fabric Filter
HAP Hazardous Air Pollutants
HCl Hydrogen Chloride
Hg Mercury
ISTDMS Integrated Sorbent Trap Dioxin Monitoring System
ISTMMS Integrated Sorbent Trap Mercury Monitoring System
Mg/dscm Milligrams per Dry Standard Cubic Meter
MH Multiple Hearth
Mn Manganese
NAICS North American Industrial Classification System
Ng/dscm Nanograms per Dry Standard Cubic Meter
Ni Nickel
$NO_X$ Nitrogen Oxides
NSPS New Source Performance Standards
NTTAA National Technology Transfer and Advancement Act of 1995
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management and Budget
Pb Lead
PCB Polychlorinated Biphenyls
PCDD/PCDF Polychlorinated Dibenzo-P-Dioxins and Polychlorinated Dibenzofurans
PM Particulate Matter
PPM Parts per Million
PPMV Parts per Million by Volume
PPMDV Parts per Million of Dry Volume
PRA Paperwork Reduction Act
PS Performance Specifications
RFA Regulatory Flexibility Act
SBA Small Business Administration
$SO_2$ Sulfur Dioxide
SSI Sewage Sludge Incineration
TEF Toxicity Equivalence Factor
TEQ Toxicity Equivalence
The Court U.S. Court of Appeals for the District of Columbia Circuit
TMB Total Mass Basis
TPY Tons per Year
TTN Technology Transfer Network
UMRA Unfunded Mandates Reform Act of 1995
VCS Voluntary Consensus Standards
WWW World Wide Web

*Organization of This Document.* The following outline is provided to aid in locating information in this preamble.

I. General Information
A. Does the proposed action apply to me?
B. What should I consider as I prepare my comments?
II. Background Information
A. What is the regulatory development background for this proposed rule?
B. What is the purpose of this proposed rule?
C. What is the status of state plan submittals?
III. Affected Facilities
A. What is a sewage sludge incinerator?
B. Does the Federal Plan apply to me?
C. How do I determine if my SSI is covered by an approved and effective state plan?
IV. Elements of the SSI Federal Plan
A. Legal Authority and Enforcement Mechanism
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G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Environmental Justice Considerations
K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

## I. General Information

### *A. Does the proposed action apply to me?*

*Regulated Entities.* If you own or operate an existing SSI and are not already subject to an EPA-approved and effective state plan implementing the March 21, 2011, emissions guidelines (EG), you may be covered by this proposed action. Existing SSI are those that commenced construction on or before October 14, 2010. Regulated categories and entities include those that operate SSI. Although there is no specific North American Industry Classification System (NAICS) code for SSI, these units may be operated by wastewater treatment facilities designed to treat domestic sewage sludge. The following NAICS codes could apply as shown in Table 1 below:

TABLE 1—EXAMPLES OF POTENTIALLY REGULATED ENTITIES

| Category | NAICS code | Examples of potentially regulated entities |
|---|---|---|
| Solid waste combustors and incinerators | 562213 | Municipalities with SSI units. |
| Sewage treatment facilities | 221320 | |

This table is not intended to be exhaustive, but rather provides a general guide for identifying entities likely to be affected by the proposed action. To determine whether your facility would be affected by this action, you should examine the applicability criteria in 40 CFR 62.15855 to 62.15870 of subpart LLL being proposed today. If you have any questions regarding the applicability of this action to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

*B. What should I consider as I prepare my comments?*

1. Submitting CBI

Do not submit information that you consider to be CBI electronically through *www.regulations.gov* or email. Send or deliver information identified as CBI to only the following address:

OAQPS Document Control Officer (Room C404–02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. EPA–HQ–OAR–2012–0319. Clearly mark the part or all of the information that you claim to be CBI. For CBI on a disk or CD–ROM that you mail to the 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 marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

2. *Docket.* The docket number for the proposed action regarding the SSI Federal Plan (40 CFR part 62, subpart LLL) is Docket ID No. EPA–HQ–OAR–2012–0319.

3. *World Wide Web (WWW).* In addition to being available in the docket, an electronic copy of the proposed action is available on the WWW through the Technology Transfer Network (TTN) Web site. Following signature, the EPA will post a copy of the proposed action at *http://www.epa.gov/airtoxics/129/ssi/ssipg.html.* The TTN provides information and technology exchange in various areas of air pollution control. Additional information is also available at the same Web site.

4. Solicitation of Comments

The EPA is aware of concerns regarding the 40 CFR 62.16015 provision requiring the SSI to operate at a minimum of 85 percent of the maximum permitted capacity during testing. We are specifically soliciting comments and additional data on whether the 85 percent threshold warrants a revision due to operational limitations or other factors.

## II. Background Information

*A. What is the regulatory development background for this proposed rule?*

Section 129 of the Clean Air Act (CAA), titled, ''Solid Waste Combustion,'' requires the EPA to develop and adopt standards for solid waste incineration units pursuant to CAA sections 111 and 129. On March 21, 2011, the EPA promulgated NSPS and EG for SSI units located at wastewater treatment facilities designed to treat domestic sewage sludge. See 76 FR 15372. Codified at 40 CFR part 60, subparts LLLL and MMMM, these final rules set limits for nine pollutants under section 129 of the CAA: cadmium (Cd), carbon monoxide (CO), hydrogen chloride (HCl), lead (Pb), mercury (Hg), nitrogen oxides ($NO_X$), particulate matter (PM), polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans (PCDDs/PCDFs), and sulfur dioxide ($SO_2$).

Sections 111(b) and 129(a) of the CAA address emissions from new units (*i.e.,* NSPS), and CAA sections 111(d) and 129(b) address emissions from existing units (*i.e.,* EG). The NSPS are directly enforceable federal regulations, and, under CAA section 129(f)(1), become effective 6 months after promulgation. Unlike the NSPS, the EG are not themselves directly enforceable.

Section 129(b)(2) of the CAA directs states with existing SSI subject to the EG to submit plans to the EPA that implement and enforce the EG. The deadline for states to submit state plans to the EPA for review was March 21, 2012.[1] Sections 111 and 129(b)(3) of the CAA and 40 CFR 60.27(c) and (d) require the EPA to develop, implement and enforce a Federal Plan for SSI in any state without an approvable state plan within 2 years after promulgation of the EG. This action proposes the SSI Federal Plan.

On August 20, 2013, the U.S. Court of Appeals for the District of Columbia Circuit (the Court) remanded portions of the 2011 SSI rules for further explanation. *National Ass'n. of Clean Water Agencies* v. *EPA,* 734 F.3d 1115. The Court did not vacate the NSPS or EG, and, therefore, the requirements of the rules remain in place. The EPA is evaluating the Court's decision and intends to address the Court's remand in a timely manner. However, the court's remand requires EPA to provide additional explanation of several aspects of its MACT floor calculations in the SSI rule, and the Agency's response to the decision may require further evaluation of those calculations. In the meantime, the agency believes it is appropriate to propose the Federal Plan at this time because the SSI rule remains in place following the Court's decision and the federal plan is needed to implement the rule in states without an approved state plan. In this proposal, the EPA is soliciting public comment only on the implementation of the SSI EG through the proposed Federal Plan. The EPA will not address comments on the underlying SSI rule.

*B. What is the purpose of this proposed rule?*

Section 129 of the CAA relies upon states as the preferred implementers of EG for existing SSI. States with existing SSI are to submit to the EPA within 1 year following promulgation of the EG state plans that are at least as protective as the EG. The EPA must develop, implement and enforce a Federal Plan within 2 years following promulgation of the EG for sources in states which have not submitted an approvable plan. The Federal Plan is an interim measure to ensure that emissions standards are implemented until states assume their

[1] Several states did not submit plans to the EPA by this date.

role as the preferred implementers of the EG.

States without any existing SSI are directed to submit to the Administrator a letter of negative declaration certifying that there are no SSI in the state. No plan is required for states that do not have any SSI. SSI located in states that mistakenly submit a letter of negative declaration would be subject to the Federal Plan until a state plan covering those SSI becomes approved. State plans that have been submitted to implement the EG adopted on March 21, 2011, are currently undergoing EPA review. This action proposes the SSI Federal Plan to implement the EG adopted on March 21, 2011, for those states that did not have an approved state plan in place by March 21, 2012.

Sections 111 and 129 of the CAA and 40 CFR 60.27(c) and (d) require the EPA to develop, implement and enforce a Federal Plan to cover existing SSI located in states that do not have an approved plan within 2 years after promulgation of the EG (by March 21, 2013). The EPA is proposing the SSI Federal Plan now so that a promulgated Federal Plan will go into place for any such states, and, thus, ensuring implementation and enforcement of the SSI EG.

Incineration of sewage sludge causes the release of a wide array of air pollutants, some of which exist in the waste feed material and are released unchanged during combustion, and some of which are generated as a result of the combustion process itself.[2] The EPA estimated in the 2011 rule that once the state plans and Federal Plan become effective, a total emissions reduction of the regulated pollutants would occur as follows: Acid gases (*i.e.,* HCl and $SO_2$) about 450 tons per year (TPY), PM about 58 TPY, non-mercury metals (*i.e.,* Pb and Cd) about 1.7 TPY and Hg about 4 pounds per year. The EPA also estimated that air pollution control devices installed to comply with the 2011 rule would also effectively reduce emissions of pollutants such as 7-Polycyclic Aromatic Hydrocarbons (7–PAH), chromium (Cr), manganese (Mn), nickel (Ni), and polychlorinated biphenyls (PCB).

*C. What is the status of state plan submittals?*

Sections 111(d) and 129(b)(3) of the CAA, 42 U.S.C. 7411(d) and 7429(b)(3), authorize and require the EPA to develop and implement a Federal Plan for SSI located in states with no approved and effective state plan. The status of the state plans as of this proposal is outlined in the following table.

TABLE 2—STATUS OF STATE PLANS

| Status | States |
|---|---|
| I. States with EPA-Approved State Plans | Indiana. |
| II. States Anticipated to Submit Negative Declarations to the EPA. | Huntsville, Alabama; Jefferson County, Alabama; Kentucky; Jefferson County, Kentucky; Mississippi; Tennessee; Montana; Pima County, Arizona; Pinal County, Arizona; Hawaii; Washoe County, Nevada; American Samoa; Guam; Oregon. |
| III. Negative Declaration Submitted/EPA Approved | Maine; Vermont; District of Columbia; Delaware; Philadelphia County, Pennsylvania; West Virginia; Alabama; Arkansas; City of Albuquerque, New Mexico; New Mexico; Oklahoma; Texas; Nebraska; Colorado; North Dakota; South Dakota; Wyoming Arizona; Idaho. |
| IV. Final State Plans Submitted to the EPA | New York; Florida; Georgia; South Carolina. |
| V. Draft States Plans Submitted to the EPA | Puerto Rico; Virginia; Missouri. |
| VI. States from which the EPA has not received a draft or final plan or negative declaration. | Rhode Island; Virgin Islands; Huntsville, Alabama; Jefferson County, Alabama; Kentucky; Jefferson County, Kentucky; Mississippi; North Carolina; Forsyth County, North Carolina; Mecklenburg County, North Carolina; Buncombe County, North Carolina; Tennessee; Minnesota; Louisiana; Iowa; Kansas; Utah; Montana; Pima County, Arizona; Pinal County, Arizona; California; Hawaii; Washoe County, Nevada; American Samoa; Guam; Alaska; Oregon; Washington. |
| VII. States Anticipated to Accept Delegation of Federal Plan. | Connecticut; Massachusetts; New Hampshire; New Jersey; Maryland; Pennsylvania; Allegheny County, Pennsylvania; Illinois; Michigan; Ohio; Wisconsin; Maricopa County, Arizona; Nevada; Clark County, Nevada. |

The preamble of the final Federal Plan will list states that have an EPA-approved plan in effect on the date the final Federal Plan is signed by the EPA Administrator. As Regional Offices approve state plans, they will also, in the same action, amend the appropriate subpart of 40 CFR part 62 to codify their approvals.

The EPA will maintain a list of state plan submittals and approvals on the TTN Air Toxics Web site at *http://www.epa.gov/airtoxics/129/ssi/ssipg.html.* The list will help SSI owners or operators determine whether their SSI is affected by a state plan or the Federal Plan.

Sewage sludge incinerator owners and operators can also contact the EPA Regional Office for the state in which their SSI is located to determine whether there is an approved and effective state plan in place. Table 3 lists the names, email addresses and telephone numbers of the EPA Regional Office contacts and the states and protectorates that they cover.

TABLE 3—REGIONAL OFFICE CONTACTS

| Region | Regional contact | Phone | States and protectorates |
|---|---|---|---|
| Region I | Patrick Bird, *bird.patrick@epa.gov* | (617) 918–1287 | Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, Vermont. |
| Region II | Ted Gardella, *gardella.anthony@epa.gov* | (212) 637–3892 | New York, New Jersey, Puerto Rico, Virgin Islands. |

[2] See 76 FR 51371–51375, 51396–51399 and 51399–51400 to reference the regulatory background, summary of final rule changes and impacts of the EG adopted on March 21, 2011.

TABLE 3—REGIONAL OFFICE CONTACTS—Continued

| Region | Regional contact | Phone | States and protectorates |
|---|---|---|---|
| Region III | Mike Gordon, *gordon.mike@epa.gov* | (215) 814–2039 | Virginia, Delaware, District of Columbia, Maryland, Pennsylvania, West Virginia. |
| Region IV | Stan Kukier, *Kukier.stan@epa.gov.* | (404) 562–9046 | Florida, Georgia, North Carolina, Alabama, Kentucky, Mississippi, South Carolina, Tennessee. |
| Region V | Margaret Sieffert, *sieffert.margaret@epa.gov* | (312) 353–1151 | Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio. |
| Region VI | Steve Thompson, *thompson.steve@epa.gov* | (214) 665–2769 | Arkansas, Louisiana, New Mexico, Oklahoma, Texas. |
| Region VII | Lisa Hanlon, *hanlon.lisa@epa.gov* | (913) 551–7599 | Iowa, Kansas, Missouri, Nebraska. |
| Region VIII | Kendra Morrison, *Morrison.kendra@epa.gov* | (303) 312–6145 | Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming. |
| Region IX | Joseph Lapka, *lapka.joseph@epa.gov* | (415) 947–4226 | Arizona, California, Hawaii, Nevada, American Samoa, Guam, Northern Mariana Islands. |
| Region X | Heather Valdez, *valdez.heather@epa.gov* | (206) 553–6220 | Alaska, Idaho, Oregon, Washington. |

## III. Affected Facilities

### *A. What is a sewage sludge incinerator?*

The term ''SSI'' means any unit [3] that combusts any amount of sewage sludge located at a wastewater treatment facility designed to treat domestic sewage sludge, as defined in 40 CFR part 62, subpart LLL. The affected facility is each individual SSI unit. The Federal Plan defines two subcategories for existing SSI units in 40 CFR part 62.16045 of subpart LLL: Multiple hearth (MH) incinerators and fluidized bed (FB) incinerators.

The combustion of sewage sludge that is not burned in an SSI unit located at a wastewater treatment facility designed to treat domestic sewage sludge may be subject to other standards under the CAA.

### *B. Does the Federal Plan apply to me?*

The Federal Plan would apply to the owner or operator of an affected SSI unit and the device is not covered by an approved and effective state plan as of March 21, 2012. The Federal Plan would cover SSI until the EPA approves a state plan that covers SSI and that plan becomes effective.

If the construction of an SSI unit began on or before October 14, 2010, it would be considered an existing SSI and could be subject to the Federal Plan. If the construction of an SSI unit began after October 14, 2010, or modification of an SSI unit began after September 21, 2011, it would be considered a new SSI and would be subject to the NSPS.

Any existing SSI would be subject to this Federal Plan, if, on the effective date of the Federal Plan, the EPA has not approved a state plan implementing the EG that covers an SSI unit or the EPA-approved state plan has not become effective. The specific applicability of the proposed Federal Plan is described in 40 CFR 62.15855 through 62.15870 of subpart LLL. The Federal Plan would become effective 30 days after final promulgation.

Once an approved state plan is in effect, the Federal Plan would no longer apply to SSI covered by an approved state plan. An approved state plan is a plan developed by a state that the EPA has reviewed and approved based on the requirements in 40 CFR part 60, subpart B, to implement 40 CFR part 60, subpart MMMM. The state plan is effective on the date specified in the notice published in the **Federal Register** announcing the EPA's approval of the plan.

The EPA's promulgation of an SSI Federal Plan will not preclude states from submitting a plan. If a state submits a plan after the promulgation of the SSI Federal Plan, the EPA will review and approve or disapprove the state plan. If the EPA approves a plan, then the SSI Federal Plan no longer applies to SSI covered by the state plan. If an SSI were overlooked by a state and the state submitted a negative declaration letter, or if an individual SSI were not covered by an approved and effective state plan, the SSI would be subject to this Federal Plan.

### *C. How do I determine if my SSI is covered by an approved and effective state plan?*

Part 62 of Title 40 of the CFR identifies the status of approval and promulgation of CAA section 111(d) and CAA section 129 state plans for designated facilities in each state. However, 40 CFR part 62 is updated only once per year. Thus, if 40 CFR part 62 does not indicate that your state has an approved and effective plan, you should contact your state environmental agency's air director or your EPA Regional Office (see Table 3 in section II.C of this preamble) to determine if approval occurred since publication of the most recent version of 40 CFR part 62.

## IV. Elements of the SSI Federal Plan

The basic elements of the Federal Plan include: (1) Identification of legal authority and mechanisms for implementation; (2) inventory of SSI; (3) emissions inventory; (4) compliance schedules; (5) emissions limits and operating limits; (6) operator training and qualification; (7) testing, monitoring, recordkeeping and reporting; (8) public hearing; and (9) progress reporting. See 40 CFR part 62, subparts LLL and sections 111 and 129 of the CAA. Below, we explain the proposed Federal Plan elements in detail.

### *A. Legal Authority and Enforcement Mechanism*

Section 301(a) of the CAA provides the EPA with broad authority to write regulations that carry out the functions of the CAA. Sections 111(d) and 129(b)(3) of the CAA direct the EPA to develop a Federal Plan for states that do not submit approvable state plans. Sections 111 and 129 of the CAA provide the EPA with the authority to implement and enforce the Federal Plan in cases where the state fails to submit a satisfactory state plan. Section 129(b)(3) of the CAA requires the EPA to develop, implement and enforce a Federal Plan within 2 years after the date the relevant EG are promulgated (by March 21, 2013, for the 2011 SSI

[3] An SSI unit is an enclosed device or devices using controlled flame combustion that burns sewage sludge for the purpose of reducing the volume of the sewage sludge by removing combustible matter. An SSI unit also includes, but is not limited to, the sewage sludge feed system, auxiliary fuel feed system, grate system, flue gas system, waste heat recovery equipment, if any, and bottom ash system. The SSI unit includes all ash handling systems connected to the bottom ash handling system. The combustion unit bottom ash system ends at the truck loading station or similar equipment that transfers the ash to final disposal. The SSI unit does not include air pollution control equipment or the stack. 40 CFR 60.5250.

EG). Compliance with the EG cannot be later than 5 years after the relevant EG are promulgated (by March 21, 2016, for the 2011 SSI EG).

*B. Inventory of Affected SSI*

In Docket No. EPA–HQ–OAR–2012–0319, today's proposed Federal Plan includes an inventory of the SSI that may potentially be covered by this Federal Plan in the absence of approved state plans. (See 40 CFR 62.15870.) This inventory contains 185 SSI in 25 states. It is based on information collected from EPA Regions, states, SSI facilities, and review of existing SSI inventories, Title V permits, emissions test reports and facility Web sites. The EPA recognizes that this list may not be complete. Therefore, sources potentially subject to this proposed Federal Plan may include, but are not limited to, the SSI listed in Docket No. EPA–HQ–OAR–2012–0319. Any SSI that meets the applicability criteria in the proposed Federal Plan rule would be subject to the Federal Plan, regardless of whether it is listed in the inventory. States or individuals are invited to identify additional sources for inclusion to the list during the comment period for this proposal.

*C. Inventory of Emissions*

This proposed Federal Plan includes an emissions estimate for existing SSI. The pollutants inventoried are Cd, CO, PCDD/PCDF, HCl, Pb, Hg, PM, $NO_X$ and $SO_2$. For this proposal, the EPA has estimated the emissions from each known SSI that potentially may be covered by the proposed Federal Plan for the nine pollutants regulated by the EG and covered by the proposed Federal Plan.

The emissions inventory is based on available information about the SSI and typical emissions rates developed for calculating nationwide air impacts of the EG. Refer to the inventory memorandum in Docket No. EPA–HQ–OAR–2012–0319 for the complete updated emissions inventory.We are soliciting comments on additional data regarding the emission inventory for existing SSI.

*D. Compliance Schedules*

Owners or operators of affected SSI units must comply within 1 year from state plan approval or, in the case of the Federal Plan, within 1 year of promulgation of the Federal Plan. Increments of progress are required for SSI that need more than 1 year from state plan approval to comply, or, in the case of the Federal Plan, more than 1 year after promulgation of the final Federal Plan. (See 40 CFR 62.15875 through 62.15915.) The two proposed increments of progress are included to ensure that each SSI needing more time to comply is making progress toward meeting the emissions limits.

The proposed Federal Plan includes defined and enforceable dates for completion of each increment. These increments of progress are: (1) Submit final control plan; and (2) final compliance.

*E. Emissions Limits and Operating Limits*

The proposed Federal Plan contains emissions limits that correspond to the 2011 SSI rule. (See 40 CFR 62.15955 through 62.16010.) The emissions limits in this proposed SSI Federal Plan are the same as those contained in the 2011 EG. (See proposed Table 5 of this preamble.)This action does not revise these limits. It is only intended to implement these limits for existing sources in states that have not adopted a state plan. Section V.B of this preamble discusses these emissions limits.

*F. Operator Training and Qualification Requirements*

The proposed Federal Plan requires that the owner or operator must qualify operators or their supervisors (at least one per facility) by ensuring that they complete an operator training course and annual review or refresher course. (See 40 CFR 62.15920 through 62.15950.) Today's proposed Federal Plan also contains operator training and qualification requirements that correspond to the 2011 EG.

*G. Testing, Monitoring, Recordkeeping and Reporting Requirements*

The proposed Federal Plan includes testing, monitoring, recordkeeping and reporting requirements. (See 40 CFR 62.16015 through 62.16040.) These proposed requirements correspond with the 2011 EG. Testing, monitoring, recordkeeping and reporting requirements will assure initial and ongoing compliance.

*H. Record of Public Hearings*

Today's proposed Federal Plan provides opportunity for public participation in adopting the plan. If requested to do so, the EPA will hold a public hearing in Research Triangle Park, NC. A record of the public hearing, if any, will appear in Docket No. EPA–HQ–OAR–2012–0319. If a public hearing is requested and held, the EPA may ask clarifying questions during the oral presentation, but will not respond to the presentations or comments at that time. Written statements and supporting information submitted during the public comment period will be considered with equivalent weight as any oral statement and supporting information subsequently presented at a public hearing, if held.

*I. Progress Reports*

Today's proposed Federal Plan requests that the EPA Regional Offices prepare annual progress reports to show the progress of SSI toward implementation of the EG. States that have been delegated the authority to implement and enforce this Federal Plan would be required to submit annual progress reports to the appropriate EPA Regional Office.

Each progress report must include the following items: (1) Status of enforcement actions; (2) status of increments of progress; (3) identification of sources that have shut down or started operation; (4) emissions inventory data for sources that were not in operation at the time of plan development but that began operation during the reporting period; (5) additional data as necessary to update previously submitted source and emissions information; and (6) copies of technical reports on any performance testing and monitoring.

*J. Affirmative Defense to Malfunctions*

The proposed Federal Plan does not include an affirmative defense to malfunction events. In the 2011 SSI rule, the EPA included an affirmative defense which provided that civil penalties would not be assessed if a source demonstrated in a judicial or administrative proceeding that it had met certain requirements.

However in 2014, the Court vacated such an affirmative defense in one of the EPA's CAA section 112(d) regulations. *NRDC* v. *EPA,* 749 F.3d 1055 (D.C. Cir. 2014) (vacating affirmative defense provisions in CAA section 112(d) rule establishing emission standards for Portland cement kilns). The Court found that the EPA lacked authority to establish an affirmative defense for private civil suits and held that under the CAA, the authority to determine civil penalty amounts lies exclusively with the Courts, not the EPA. Specifically, the Court found: ''As the language of the statute makes clear, the courts determine, on a case-by-case basis, whether civil penalties are 'appropriate.' '' *See NRDC* at 1063 (''U]nder this statute, deciding whether penalties are 'appropriate' in a given private civil suit is a job for the courts, not EPA.''). In light of *NRDC,* the EPA's proposed Federal Plan for the SSI rule does not include the affirmative defense

provision. The EPA intends to revise the SSI rule and remove the affirmative defense provision from the rule in the near future.

## V. Summary of Proposed SSI Federal Plan Requirements

The proposed SSI Federal Plan requirements are described below. Table 4 lists each element and identifies where it is located or codified.

TABLE 4—ELEMENTS OF THE PROPOSED SSI FEDERAL PLAN

| Element of the SSI Federal Plan | Location |
|---|---|
| Legal authority and enforcement mechanism | Sections 129(b)(3), 111(d), 301(a), and 301(d)(4) of the CAA. |
| Inventory of affected SSI units | Docket ID No. EPA–HQ–OAR–2012–0319. |
| Inventory of emissions | Docket ID No. EPA–HQ–OAR–2012–0319. |
| Compliance schedules | 40 CFR 62.15875 to 62.15915. |
| Emissions limits and operating limits | 40 CFR 62.15955 to 62.16010. |
| Operator training and qualification | 40 CFR 62.15920 to 62.15950. |
| Testing, monitoring, recordkeeping and reporting | 40 CFR 62.16015 to 62.16040. |
| Record of public hearings | Docket ID No. EPA–HQ–OAR–2012–0319. |
| Progress reports | Section V.B. of this preamble. |

### *A. What are the proposed applicability requirements?*

The proposed Federal Plan applicability reflects the 2011 EG. The proposed Federal Plan applies to existing SSI units meeting the applicability of 40 CFR 62.15855 that are located in any state that does not currently have an approved state plan in place. Existing SSI are considered to be all SSI units for which construction commenced on or before October 14, 2010. All SSI units for which construction commenced after October 14, 2010, or for which modification commenced after September 21, 2011, are considered ''new'' sources subject to NSPS emissions limits (40 CFR part 60, subpart LLLL).

The Federal Plan requirements apply to owners and/or operators of SSI units (as defined in 40 CFR 62.16045) located at wastewater treatment facilities designed to treat domestic sewage sludge. Two subcategories are defined for existing units: MH incinerators and FB incinerators. The combustion of sewage sludge that is not burned in an SSI unit located at a wastewater treatment facility designed to treat domestic sewage sludge may be subject to other incineration standards.

### *B. What are the proposed compliance schedules?*

Today's proposed Federal Plan requires owners or operators of SSI to either: (1) Come into compliance with the plan within 1 year after the plan is promulgated; or (2) meet increments of progress and come into compliance by March 21, 2016. Increments of progress are necessary in order to ensure that SSI needing more time to comply are making progress toward meeting the emissions limits and will be in compliance by the required date. This proposed Federal Plan includes two increments of progress (See 40 CFR 62.15875 through 62.15915), along with defined and enforceable dates for completion of each increment.

The SSI owner or operator must meet each of the two increments of progress for each SSI no later than the applicable compliance date for each increment. In addition, the owner or operator must notify the EPA and permitting authority or delegated authority as each increment of progress is achieved, as well as when any is missed. The notification must identify the increment and the date the increment is achieved (or missed). If an owner or operator misses an increment deadline, the owner or operator must also notify the EPA and permitting authority or delegated authority when the increment is achieved. The owner or operator must mail the notification to the applicable EPA Regional Office and permitting authority or delegated authority within 10 business days after the increment date that is defined in the Federal Plan. (See Table 3 under section II.C.of this preamble for a list of EPA Regional Offices.)

The definition of each increment of progress, along with its required completion date, follows.

*Submit Final Control Plan.* To meet this increment, the owner or operator of each SSI must submit a plan that includes a description of the devices for air pollution control and process changes that will be used to comply with the emissions limits and standards and other requirements of this subpart, a description of the type(s) of waste to be burned (if other than sewage sludge is burned in the unit), the maximum design sewage sludge burning capacity, and, if applicable, the petition for site-specific operating limits under 40 CFR 62.15965. A copy of the final control plan must be maintained onsite. A final control plan is not required for units that will be shut down prior to the final control plan submittal date.

*Completion date:* [3 months from date of publication of the final rule in the **Federal Register**].

*Final Compliance.* To be in final compliance means to complete all process changes and retrofit construction of control devices as specified in the final control plan, so that if the SSI is brought online, all necessary process changes and air pollution control devices are operating as designed.

*Completion date:* March 21, 2016.

The EPA developed this schedule using the EPA guidance drafted for enabling states to draft state plans and set increments of progress. The 2010 State Implementation Guidance Document is available in this rulemaking docket and through the EPA's TTN at *http://www.epa.gov/ttnatw01/129/hmiwi/epa453b10001_hmiwi.pdf.*

If an SSI does not achieve final compliance by March 21, 2016, the proposed Federal Plan requires the SSI to shut down by March 21, 2016, complete the retrofit while not operating and be in compliance upon restarting. An SSI that operates out of compliance after the final compliance date would be in violation of the Federal Plan and subject to enforcement action.

### *C. What are the proposed emissions limits and operating limits?*

This action proposes to incorporate the EG emissions and operating limits into the SSI Federal Plan. Table 5 of this preamble summarizes the EG emissions limits promulgated. Existing sources may comply with either the PCDD/PCDF toxicity equibalance or total mass balance emission limits. These standards apply at all times. Facilities will be required to establish site-specific operating limits derived from the results of performance testing. The site-specific operating limits are established as the

minimum (or maximum, as appropriate) operating parameter value measured during the performance test. These operating limits will result in achievable operating ranges that will ensure that the control devices used for compliance will be operated to achieve continuous compliance with the emissions limits. Further discussion on performance testing can be found in section V.D.of this preamble.

TABLE 5—SUMMARY OF EG EMISSIONS LIMITS PROMULGATED FOR EXISTING SSI

| Pollutant | Units | Emission limit for MH incinerators | Emission limit for FB incinerators |
|---|---|---|---|
| Cd | milligrams per dry standard cubic meter @7 percent Oxygen. | 0.095 | 0.0016. |
| CO | parts per million of dry volume @7 percent Oxygen | 3,800 | 64. |
| HCl | parts per million of dry volume @7 percent Oxygen | 1.2 | 0.51. |
| Hg | mg/dscm @7% $0_2$ | 0.28 | 0.037. |
| $NO_X$ | parts per million of dry volume @7 percent Oxygen | 220 | 150. |
| Pb | milligrams per dry standard cubic meter @7 percent Oxygen. | 0.30 | 0.0074. |
| PCDD/PCDF, TEQ | nanograms per dry standard cubic meter @7 percent Oxygen. | 0.32 | 0.10. |
| PCDD/PCDF, TMB | nanograms per dry standard cubic meter @7 percent Oxygen. | 5.0 | 1.2. |
| PM | milligrams per dry standard cubic meter @7 percent Oxygen. | 80 | 18. |
| $SO_2$ | parts per million of dry volume @7 percent Oxygen | 26 | 15. |
| Fugitive emissions from ash handling. | Percent of the hourly observation period | Visible emissions of combustion ash from an ash conveying system (including conveyor transfer points) for no more than 5 percent of any compliance test hourly observation period. | Visible emissions of combustion ash from an ash conveying system (including conveyor transfer points) for no more than 5 percent of any compliance test hourly observation period. |

*D. What are the proposed performance testing and monitoring requirements?*

The following paragraphs list a number of testing and monitoring requirements in the 2011 EG that are proposed to be incorporated into the SSI Federal Plan in today's action.

1. Performance Testing

The proposed performance testing provisions reflect those in the SSI EG. First, today's proposed Federal Plan requires all existing SSI units to demonstrate initial and annual compliance with the emission limits using EPA-approved emission test methods. Additionally, there is a proposed option for less frequent testing if sources demonstrate that their emissions of regulated pollutants are below thresholds of the emission limits.

This proposal requires initial and annual emissions performance tests (or continuous emissions monitoring or continuous sampling as an alternative), bag leak detection systems for fabric filter (FF) controlled units, and continuous parameter monitoring, if they are used to meet the emission limits. All SSI are also required to conduct initial and annual inspections of air pollution control devices. Additional monitoring includes the Method 22 (see 40 CFR part 60, appendix A–7) visible emissions test of the ash handling operations during each compliance test to demonstrate compliance with the visible emissions limit. For existing SSI units, use of Cd, CO, HCl, $NO_X$, PM, Pb or $SO_2$ Continuous Emissions Monitoring Systems (CEMS); Integrated Sorbent Trap Mercury Monitoring System (ISTMMS); and Integrated Sorbent Trap Dioxin Monitoring System (ISTDMS) (continuous sampling with periodic sample analysis) are approved alternatives to parametric monitoring and annual compliance testing.

Second, today's proposed Federal Plan allows sources to use results of their previous emissions tests to meet the initial compliance performance test requirement if those tests were conducted within the 2 previous years and were conducted under the same conditions. The operating limits established during the most recent performance test that demonstrated initial compliance with the emissions limits must be met.

Third, today's proposed Federal Plan incorporates by reference two alternatives to the EPA reference test methods, ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses and ASTM D6784–02, Standard Test Method for Elemental, Oxidized, Particle Bound and Total Mercury Generated from Coal-Fired Stationary sources (Ontario-Hydro Method). These tests are discussed further in section IX.I.titled, ''National Technology Transfer and Advancement Act (NTTAA),'' of this preamble.

2. Monitoring

Monitoring of operating limits can be used to indicate whether air pollution control equipment and practices are functioning properly to minimize air pollution. The 2011 EG and today's proposed Federal Plan include the following parameter monitoring requirements for good combustion, wet scrubbers, afterburners, electrostatic precipitators (ESP), activated carbon injection (ACI) or FF:

- All units must establish a minimum operating temperature or afterburner temperature, site specific operating requirements for fugitive ash, and monitor feed rate and moisture content of the sludge.
- If using a scrubber to comply with the emissions limits for PM, Pb and Cd, continuously monitor minimum pressure drop.
- If using a scrubber to comply with any of the emissions limits, continuously monitor minimum scrubber liquid flow rate.
- If using a scrubber to comply with the emissions limits for $SO_2$ or HCl, continuously monitor minimum scrubber liquid pH.
- If using an afterburner to comply with the emissions limits, continuously

monitor the minimum temperature of the afterburner combustion chamber.

- If using an ESP to comply with PM, Pb and Cd emissions limits, continuously monitor minimum power input to the ESP collection plates. Power input must be calculated as the product of the secondary voltage and secondary amperage to the ESP collection plates. Both the secondary voltage and secondary amperage must be recorded during the performance test.
- If using an ESP to comply with PM, Pb and Cd emissions limits, monitor hourly minimum effluent water flow rate at the outlet of the ESP.
- If using ACI to comply with the emissions limits, monitor hourly minimum Hg sorbent inject rate, minimum PCDD/PCDF sorbent injection rate, and continuously monitor minimum carrier gas flow rate or minimum carrier gas pressure drop for the applicable emission limit.
- If using a FF, install a bag leak detection system and operate the bag leak detection system such that the alarm does not sound more than 5 percent of the operating time during a 6-month period.
- If using something other than a wet scrubber, ESP, ACI, FF or afterburner, petition the Administrator for other site-specific operating parameters, operating limits, and averaging periods to be established during the initial performance test and continuously thereafter.

Owners or operators are not required to establish operating limits for the operating parameters for a control device if a Continuous Monitoring System (CMS) is used to demonstrate compliance with the emissions limits.

3. Electronic Data Submittal

In this proposal, the EPA is describing a process to increase the ease and efficiency of performance test data submittal while improving data accessibility. Specifically, the EPA is proposing that owners and operators of SSI facilities submit electronic copies of required performance test and performance evaluation reports by direct computer-to-computer electronic transfer using EPA-provided software. This mirrors the 2011 EG for SSI units. The direct computer-to-computer electronic transfer is accomplished through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). The CDX is the EPA's portal for submittal of electronic data. The EPA-provided software is called the Electronic Reporting Tool (ERT) which is used to generate electronic reports of performance tests and evaluations. The ERT generates an electronic report package which will be submitted using the CEDRI. The submitted report package will be stored in the CDX archive (the official copy of record) and the EPA's public database called WebFIRE. All stakeholders will have access to all reports and data in WebFIRE and accessing these reports and data will be very straightforward and easy (see the WebFIRE Report Search and Retrieval link at *http://cfpub.epa.gov/webfire/index.cfm?action=fire.searchERTSubmission*). A description and instructions for use of the ERT can be found at *http://www.epa.gov/ttn/chief/ert/index.html* and CEDRI can be accessed through the CDX Web site (*www.epa.gov/cdx*). A description of the WebFIRE database is available at: *http://cfpub.epa.gov/oarweb/index.cfm?action=fire.main.*

The proposal to submit performance test data electronically to the EPA applies only to those performance tests (and/or performance evaluations) conducted using test methods that are supported by the ERT. The ERT supports most of the commonly used EPA reference methods. A listing of the pollutants and test methods supported by the ERT is available at: *http://www.epa.gov/ttn/chief/ert/index.html.*

Similarly described in the 2011 EG for SSI units, we believe that industry would benefit from this proposed approach to electronic data submittal. Specifically, by using this approach, industry will save time in the performance test submittal process. Additionally, the standardized format that the ERT uses allows sources to create a more complete test report resulting in less time spent on data backfilling if a source failed to include all data elements required to be submitted. Also, through this proposal, industry may only need to submit a report once to meet the requirements of the applicable subpart because stakeholders can readily access these reports from the WebFIRE database. This also benefits industry by reducing on recordkeeping costs as the performance test reports that are submitted to the EPA using CEDRI are no longer required to be retained in hard copy, thereby, reducing staff time needed to coordinate these records.

Since the EPA will already have performance test data in hand, another benefit to industry is that fewer or less substantial data collection requests in conjunction with prospective required residual risk assessments or technology reviews will be needed. This would result in a decrease in staff time needed to respond to data collection requests.

State, local and tribal air pollution control agencies may also benefit from having electronic versions of the reports they are now receiving. For example, state, local and tribal air pollution control agencies may be able to conduct a more streamlined and accurate review of electronic data submitted to them. For example, the ERT would allow for an electronic review process, rather than a manual data assessment, and, therefore, making review and evaluation of the source provided data and calculations easier and more efficient. In addition, the public will stand to benefit from electronic reporting of emissions data because the electronic data will be easier for the public to access. How the air emissions data are collected, accessed and reviewed will be more transparent for all stakeholders.

One major advantage of the proposed submittal of performance test data through the ERT is a standardized method to compile and store much of the documentation required to be reported by this rule. The ERT clearly states what testing information would be required by the test method and has the ability to house additional data elements that might be required by a delegated authority.

In addition, the EPA must have performance test data to conduct effective reviews of CAA sections 111, 112 and 129 standards, as well as for many other purposes including compliance determinations, emission factor development and annual emission rate determinations. In conducting these required reviews, the EPA has found it ineffective and time consuming, for both EPA and regulatory agencies and source owners and operators, to locate, collect and submit performance test data. In recent years, though, stack testing firms have typically collected performance test data in electronic format, making it possible to move to an electronic data submittal system that would increase the ease and efficiency of data submittal and improve data accessibility.

A common concern raised by industry and regulators is that emission factors are outdated or not representative of a particular source category. With timely receipt and incorporation of data from most performance tests, the EPA would be able to ensure that emission factors, when updated, represent the most current range of operational practices. Finally, another benefit of the proposed data submittal to WebFIRE electronically is that these data would greatly improve the overall quality of existing and new emissions factors by supplementing the pool of emissions

test data for establishing emissions factors.

In summary, in addition to supporting regulation development, control strategy development and other air pollution control activities, having an electronic database populated with performance test data would save industry, state, local, tribal agencies and the EPA significant time, money and effort while also improving the quality of emission inventories and air quality regulations.

*E. What are the proposed recordkeeping and reporting requirements?*

Today's action proposes recordkeeping and reporting requirements which reflect those finalized in the 2011 EG. Today's proposed Federal Plan requires that records of all initial and all subsequent stack or performance specification (PS) tests, deviation reports, operating parameter data, continuous monitoring data, maintenance and inspections of air pollution control devices, monitoring plan, and operator training and qualification must be maintained for 5 years. The results of the stack tests and PS test and values for operating parameters are required to be included in initial and subsequent compliance reports. Any incident of deviation, resumed operation following shutdown, force majeure, intent to stop or start use of CMS, and intent of conducting or rescheduling a performance test are required to be reported to the Administrator. Furthermore, increments of progress reports are required following the completion of each increment of progress and identifying any missed increment of progress. See section V.B of this preamble for a more detailed discussion of the increments of progress and compliance schedules.

*F. What other requirements is the EPA proposing?*

This action proposes other requirements that reflect those finalized in the 2011 EG. First, owners and operators of existing SSI units are required to meet operator training and qualification requirements, which include: Ensuring that at least one operator or supervisor per facility complete the operator training course, that qualified operator(s) or supervisor(s) complete an annual review or refresher course specified in the regulation and that they maintain plant-specific information, updated annually, regarding training.

Second, owners or operators of existing SSI are required to submit a monitoring plan for any CMS or bag leak detection system used to comply with the rule. Third, they must also submit a monitoring plan for their ash handling system that specifies the operating procedures they will follow to ensure that they meet the fugitive ash emissions limit.

## VI. SSI That Have or Will Shut Down

*A. Units That Plan To Close Rather Than Comply*

The proposed Federal Plan establishes that if owners or operators plan to permanently close currently operating SSI, they must do so and submit a closure notification to the Administrator by the date the final control plan is due. The requirements for closing SSI unit rather than complying with the rule under today's proposal will be set forth at 40 CFR 62.15915 of subpart LLL. Until such time as a unit is permanently closed, it must comply with any applicable requirements of the Federal Plan.

If an SSI unit continues to operate 1 year after publication of the final Federal Plan in the **Federal Register**, then it must comply with all aspects of this Federal Plan by the date 1 year after publication of the final action. In addition, while still in operation, the SSI unit is subject to the same requirements for Title V operating permits that apply to units that will not shut down.

*B. Inoperable Units*

Today's proposed Federal Plan provides that in cases where an SSI has already shut down permanently and has been rendered inoperable (*e.g.,* waste charge door is welded shut, stack is removed, combustion air blowers removed, burners or fuel supply appurtenances are removed, the SSI may be left off the source inventory in a state plan or this proposed Federal Plan. An SSI that has been rendered inoperable would not be covered by the Federal Plan.

*C. SSI That Have Shut Down*

Today's Federal Plan proposal includes any SSI that are known to have already shut down (but are not known to be inoperable) in the source inventory . . .

1. Restarting Before the Final Compliance Date

If the owner or operator of an inactive SSI plans to restart before the final compliance date, the owner or operator must meet the increments of progress specified in the Federal Plan. Final compliance is required for all pollutants and all SSI no later than the final compliance date.

2. Restarting After the Final Compliance Date

Under this proposed Federal Plan, if the owner or operator of an SSI closes the SSI unit, but restarts the unit after the final compliance date, the owner or operator must complete emission control retrofits and meet the emissions and operating limits on the date the SSI unit restarts operation. Within 6 months of the unit startup, operator(s) of these SSI would have to complete the operator training and qualification requirements. Within 60 days of installing an air pollution control device, operator(s) must conduct a unit inspection. Performance testing to demonstrate initial compliance would also be required as described at 40 CFR 62.15980. There is no need to show that the increments of progress have been met since these steps would have occurred before restart while the SSI was shut down and not generating emissions. AN SSI that operates out of compliance after the final compliance date would be in violation of the Federal Plan and subject to enforcement action.

## VII. Implementation of the Federal Plan and Delegation

*A. Background of Authority*

Under sections 111(d) and 129(b) of the CAA, the EPA is required to adopt EG that are applicable to existing solid waste incineration units. These EG are fully implemented when the EPA approves a state plan or adopts a Federal Plan that implements and enforces the EG. As discussed above, the Federal Plan regulates SSI in states that do not have approved plans in effect to implement the EG.

Congress has determined that the primary responsibility for air pollution prevention and control rests with state and local agencies. (See section 101(a)(3) of the CAA.) Consistent with that overall determination, Congress established sections 111 and 129 of the CAA with the intent that the state and local agencies take the primary responsibility for ensuring that the emissions limitations and other requirements in the EG are achieved. Also, in section 111(d) of the CAA, Congress explicitly required that the EPA establish procedures that are similar to those under CAA section 110(c) for state implementation plans. Although Congress required the EPA to propose and promulgate a Federal Plan for states that fail to submit approvable state plans on time, states may submit plans after promulgation of the SSI Federal Plan. The EPA strongly encourages states that are unable to

submit approvable plans to request delegation of the Federal Plan so that they can have primary responsibility for implementing the revised EG, consistent with the intent of Congress.

Approved and effective state plans or delegation of the Federal Plan is the EPA's preferred outcome because the EPA believes that state, tribal, and local agencies not only have the responsibility to carry out the revised EG, but also have the practical knowledge and enforcement resources critical to achieving the highest rate of compliance. It is generally preferable for the state and local agencies to be the implementing agency. For these reasons, the EPA will do all that it can to expedite delegation of the Federal Plan to state and local agencies, whenever possible, in cases where states are unable to develop and submit approvable state plans.

*B. Delegation of the Federal Plan and Retained Authorities*

If a state or tribe intends to take delegation of the Federal Plan, the state or tribe should submit to the appropriate EPA Regional Office a written request for delegation of authority. The state or tribe should explain how it meets the criteria for delegation. See generally ''Good Practices Manual for Delegation of NSPS and NESHAP'' (EPA, February 1983). The letter requesting delegation of authority to implement the Federal Plan should: 1. demonstrate that the state or tribe has adequate resources, as well as the legal and enforcement authority to administer and enforce the program, 2. include an inventory of affected SSI units, which includes those that have ceased operation, but have not been dismantled, include an inventory of the affected units' air emissions and a provision for state progress reports to the EPA, 3. certify that a public hearing is held on the state delegation request, and 4. include a memorandum of agreement between the state or tribe and the EPA that sets forth the terms and conditions of the delegation, the effective date of the agreement and the mechanism to transfer authority. Upon signature of the agreement, the appropriate EPA Regional Office would publish an approval notice in the **Federal Register**, thereby incorporating the delegation of authority into the appropriate subpart of 40 CFR part 62.

If authority is not delegated to a state or tribe, the EPA will implement the Federal Plan. Also, if a state or tribe fails to properly implement a delegated portion of the Federal Plan, the EPA will assume direct implementation and enforcement of that portion. The EPA will continue to hold enforcement authority along with the state or tribe even when a state or tribe has received delegation of the Federal Plan. In all cases where the Federal Plan is delegated, the EPA will retain and will not transfer authority to a state or tribe to approve the following items promulgated in the 2011 SSI rules:

1. Alternatives to the emissions limits in Table 5 of this
2. Approval of major alternatives to monitoring;
3. Approval of major alternatives to recordkeeping and reporting;
4. Alternative site-specific operating parameters established by facilities using controls other than a scrubber, ESP, afterburner, ACI or FF;
5. Approval of operation of an SSI unit and receipt of status reports when a qualified operator is not accessible for 2 weeks or more; and
6. Performance test and data reduction waivers under 40 CFR 60.8(b).

Today's proposed Federal Plan also specifies that SSI owners or operators who wish to petition the agency for any alternative requirement should submit a request to the Regional Administrator with a copy sent to the appropriate state.

*C. Mechanisms for Transferring Authority*

There are two mechanisms for transferring implementation authority to state, tribal, and local agencies: 1. The EPA approval of a state plan after the Federal Plan is in effect; and 2. if a state does not submit or obtain approval of its own plan, the EPA delegation to a state of the authority to implement certain portions of this Federal Plan to the extent appropriate and if allowed by state law. Both of these options are described in more detail below.

1. Federal Plan Becomes Effective Prior to Approval of a State Plan

After SSI in a state become subject to the Federal Plan, the state or local agency may still adopt and submit a plan to the EPA. If the EPA determines that the state plan is as protective as the EG, the EPA will approve the state plan. If the EPA determines that the plan is not as protective as the EG, the EPA will partially approve or disapprove the plan (or portion of the plan) and the SSI covered in the state plan would remain subject to the Federal Plan until a state plan covering those SSI is approved and effective. Prior to disapproval, the EPA will work with states to attempt to reconcile areas of the plan that remain not as protective as the EG.

Upon the effective date of a state plan, the Federal Plan would no longer apply to SSI covered by such a plan and the state or local agency would implement and enforce the state plan in lieu of the Federal Plan. When an EPA Regional Office approves a state plan, it will amend the appropriate subpart of 40 CFR part 62 to indicate such approval.

2. State Takes Delegation of the Federal Plan

The EPA, in its discretion, may delegate to state agencies the authority to implement this Federal Plan. As discussed above, the EPA believes that it is advantageous and the best use of resources for state or local agencies to agree to undertake, on the EPA's behalf, administrative and substantive roles in implementing the Federal Plan to the extent appropriate and where authorized by state law. If a state requests delegation, the EPA will generally delegate the entire Federal Plan to the state agency. These functions include administration and oversight of compliance reporting and recordkeeping requirements, SSI inspections and preparation of draft notices of violation, but will not include any authorities retained by the EPA. State agencies that have taken delegation, as well as the EPA, will have responsibility for bringing enforcement actions against sources violating Federal Plan provisions.

*D. Implementing Authority*

The EPA Regional Administrators have been delegated the authority for implementing the SSI Federal Plan. All reports required by the Federal Plan should be submitted to the appropriate Regional Administrator. Section II.C of this preamble includes Table 3 that lists names and addresses of the EPA Regional Office contacts and the states they cover.

## VIII. Title V Operating Permits

All existing SSI units regulated under state or Federal Plans implementing the 2011 EG must apply for and obtain a Title V permit. These Title V operating permits assure compliance with all applicable requirements for regulated SSI units, including all applicable CAA section 129 requirements.[4]

The permit application deadline for a CAA section 129 source applying for a Title V operating permit depends on when the source first becomes subject to the relevant Title V permits program. For example, if the SSI unit is an existing unit and is not subject to an earlier permit application deadline, the source must submit a complete Title V

[4] 40 CFR 70.2, 70.6(a)(1), 71.2 and 71.6(a)(1).

permit application by the earliest of the following dates:

- Twelve months after the effective date of any applicable EPA-approved CAA sections 111(d)/129 plan (*i.e.,* approved state or tribal plan that implements the SSI EG); or
- Twelve months after the effective date of any applicable Federal Plan; or
- Thirty-six months after promulgation of 40 CFR part 60, subpart MMMM, *i.e.,* March 21, 2014.

For any existing SSI unit not subject to an earlier permit application deadline, the application deadline of March 21, 2014, applies regardless of whether or when any applicable Federal Plan is effective, or whether or when any applicable CAA sections 111(d)/129 plan is approved by the EPA and becomes effective. (See CAA sections 129(e), 503(c), 503(d), 502(a) and 40 CFR 70.5(a)(1)(i) and 71.5(a)(1)(i).)

If the SSI unit is subject to Title V as a result of some triggering requirement(s) other than those mentioned above (for example, an SSI unit may be a major source or part of a major source), then the owner/operator of the source may be required to apply for a Title V permit prior to the deadlines specified above. If more than one requirement triggers a source's obligation to apply for a Title V permit, the 12-month time frame for filing a Title V permit application is triggered by the requirement which first causes the source to be subject to Title V.[5]

For more background information on the interface between CAA section 129 and Title V, including the EPA's interpretation of CAA section 129(e), as well as information on submitting Title V permit applications, updating existing Title V permit applications and reopening existing Title V permits, see the final Federal Plan for Commercial and Industrial Solid Waste Incinerators, October 3, 2003 (68 FR 57518, 57532). See also the final Federal Plan for Hospital Medical Infectious Waste Incinerators, August 15, 2000 (65 FR 49868, 49877).

### *A. Title V and Delegation of a Federal Plan*

As noted previously, issuance of a Title V permit is not equivalent to the approval of a state plan or delegation of a Federal Plan.[6] Legally, delegation of a standard or requirement results in a delegated state or tribe standing in for the EPA as a matter of federal law. This means that obligations a source may have to the EPA under a federally promulgated standard become obligations to a state (except for functions that the EPA retains for itself) upon delegation.[7] Although a state or tribe may have the authority under state or tribal law to incorporate section 111/129 requirements into its Title V permits, and implement and enforce these requirements in these permits without first taking delegation of the section 111/129 Federal Plan, the state or tribe is not standing in for the EPA as a matter of federal law in this situation. Where a state or tribe does not take delegation of a section 111/129 Federal Plan, obligations that a source has to the EPA under the Federal Plan continue after a Title V permit is issued to the source. As a result, the EPA continues to maintain that an approved part 70 operating permits program cannot be used as a mechanism to transfer the authority to implement and enforce the Federal Plan from the EPA to a state or tribe.

As mentioned above, a state or tribe may have the authority under state or tribal law to incorporate CAA section 111/129 requirements into its Title V permits, and implement and enforce these requirements in that context without first taking delegation of the CAA section 111/129 Federal Plan.[8] Some states or tribes, however, may not be able to implement and enforce a CAA section 111/129 standard in a Title V permit under state or tribal law until the CAA section 111/129 standard has been delegated. In these situations, a state or tribe should not issue a 40 CFR part 70 permit to a source subject to a Federal Plan before taking delegation of the section 111/129 Federal Plan.

However, if a state or tribe can provide an Attorney General's (AG's) opinion delineating its authority to incorporate CAA section 111/129 requirements into its Title V permits, and then implement and enforce these requirements through its Title V permits without first taking delegation of the requirements, then a state or tribe does not need to take delegation of the CAA section 111/129 requirements for purposes of Title V permitting.[9] In practical terms, without approval of a state or tribal plan, delegation of a Federal Plan, or an adequate AG's opinion, states and tribes with approved CFR 40 part 70 permitting programs open themselves up to potential questions regarding their authority to issue permits containing CAA section 111/129 requirements and to assure compliance with these requirements. Such questions could lead to the issuance of a notice of deficiency for a state's or tribe's CFR 40 part 70 program. As a result, prior to a state or tribal permitting authority drafting a part 70 permit for a source subject to a CAA section 111/129 Federal Plan, the state or tribe, the EPA Regional Office and source in question are advised to ensure that delegation of the relevant Federal Plan has taken place or that the permitting authority has provided to the EPA Regional Office an adequate AG's opinion.

In addition, if a permitting authority chooses to rely on an AG's opinion and not take delegation of a Federal Plan, a CAA section 111/129 source subject to the Federal Plan in that state must simultaneously submit to both the EPA and the state or tribe all reports required by the standard to be submitted to the EPA. Given that these reports are necessary to implement and enforce the CAA section 111/129 requirements when they have been included in Title V permits, the permitting authority needs to receive these reports at the same time as the EPA.

In the situation where a permitting authority chooses to rely on an AG's opinion and not take delegation of a Federal Plan, the EPA Regional Offices will be responsible for implementing and enforcing section CAA 111/129 requirements outside of any Title V permits. Moreover, in this situation, the EPA Regional Offices will continue to be responsible for developing progress reports and conducting any other administrative functions required under this Federal Plan or any other section CAA 111/129 Federal Plan. See, *e.g.,* section V.B of this preamble titled ''What are the proposed compliance schedules?''.

It is important to note that the EPA is not using its authority under 40 CFR part 70.4(i)(3) to request that all states

[5] CAA Section 503(c) and 40 CFR 70.3(a) and (b), 70.5(a)(1)(i), 71.3(a) and (b) and 71.5(a)(1)(i).

[6] See, *e.g.,* the ''Title V and Delegation of a Federal Plan'' section of the proposed Federal Plan for Commercial Industrial Solid Waste Incinerators (CISWI), November 25, 2002 (67 FR 70640, 70652). The preamble language from this section in the proposed Federal Plan for CISWI was reaffirmed in the final Federal Plan for CISWI, October 3, 2003 (68 FR 57518, 57535).

[7] If the Administrator chooses to retain certain authorities under a standard, those authorities cannot be delegated, *e.g.,* alternative methods of demonstrating compliance.

[8] The EPA interprets the phrase ''assure compliance'' in CAA section 502(b)(5)(A) to mean that permitting authorities will implement and enforce each applicable standard, regulation or requirement which must be included in the Title V permits the permitting authorities issue. *See* definition of ''applicable requirement'' in 40 CFR 70.2. See also 40 CFR 70.4(b)(3)(i) and 70.6(a)(1).

[9] It is important to note that an attorney general's opinion submitted at the time of initial Title V program approval is sufficient if it demonstrates that a state or tribe has adequate authority to incorporate CAA section 111/129 requirements into its Title V permits and to implement and enforce these requirements through its Title V permits without delegation.

and tribes which do not take delegation of this Federal Plan submit supplemental AG's opinions at this time. However, the EPA Regional Offices shall request, and permitting authorities shall provide, such opinions when the EPA questions a state's or tribe's authority to incorporate CAA section 111/129 requirements into a Title V permit and implement and enforce these requirements in that context without delegation.

## IX. Statutory and Executive Order Reviews

Additional information about the Statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

### *A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

### *B. Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the PRA. This action simply proposes the SSI Federal Plan to implement the EG adopted on March 21, 2011,[10] for those states that do not have a state plan implementing the emission guidelines.

### *C. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. Emissions guidelines for owners of existing sewage sludge incineration units were established by the March 21, 2011, final rule and that rule was certified as not having a significant economic impact on a substantial number of small entities. This action merely establishes a Federal Plan to implement and enforce those requirements in those states that do not have their own EPA-approved state plan for implementing and enforcing the requirements.

### *D. Unfunded Mandates Reform Act (UMRA)*

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. Therefore, this action imposes no enforceable duty or any state, local or tribal government or the private sector.

### *E. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states or on the distribution of power and responsibilities among the various levels of government.

### *F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This action does not have tribal implications, as specified in Executive Order 13175. The EPA is not aware of any SSI owned or operated by Indian tribal governments. Thus, Executive Order 13175 does not apply to this proposed action.

### *G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*

The EPA interprets Executive Order 13045 as applying to those regulatory actions that concern health or safety risks, that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

### *H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Orders 12866.

### *I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51*

This action involves technical standards that are reasonably available and already widely used by industries and regulated parties. The EPA proposes to use ANSI/ASME PTC 19.10–1981, ''Flue and Exhaust Gas Analyses,'' for its manual methods of measuring the oxygen or carbon dioxide content of the exhaust gas. These parts of ASME PTC 19.10–1981 are acceptable alternatives to EPA Methods 6, 7 for the manual procedures only. This standard is available from the ASME, Three Park Avenue, New York, NY 10016–5990.

Another voluntary consensus standards (VCS), ASTM D6784–02 (Reapproved 2008), ''Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method)'' is an acceptable alternative to Method 29 and 30B. The EPA has also decided to use EPA Methods 5, 6, 6C, 7, 7E, 9, 10, l0A, l0B, 22, 23, 26A, 29 and 30B. No VCS were found for EPA Method 9 and 22.

While the EPA has identified 23 VCS as being potentially applicable to the proposed rule, we have decided not to use these VCS in this rulemaking. The use of these VCS would be impractical because they do not meet the objectives of the standards cited in this proposed rule. See the docket for the 2011 EG (Docket ID No. EPA–HQ–OAR–2009–0539), which is being implemented under today's proposed action, for the reason for these determinations.

Under 40 CFR 62.16050, the EPA Administrator retains the authority of approving alternate methods of demonstrating compliance as established under 40 CFR 60.8(b) and 60.13(i), subpart A (NSPS General Provisions). A source may apply to the EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required EPA test methods, performance specifications or procedures.

The EPA solicits comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable VCS and to explain why such standards should be used in this regulation.

### *J. Environmental Justice Considerations*

An analysis of demographic data was conducted for this rulemaking. This analysis showed that the average of populations in close proximity to the sources, and thus most likely to be effected by the sources, were similar in demographic composition to national averages. The results of the demographic analysis are presented in ''Review of Environmental Justice Impacts,'' June 2010, a copy of which is available in the SSI docket (EPA–HQ–OAR–2009–0559).

### *K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations. This proposed action implements national standards in the 2011 EG that would result in reduction in emissions of many of the listed HAP emitted from this source. This includes emissions of Cd, HCl, Pb, and Hg. Other emissions reductions include reductions of criteria pollutants such as CO, $NO_X$,

[10] Section, 76 FR 15372, March 21, 2011.

PM and $PM_{2.5}$ and $SO_2$. Sulfur dioxide and $NO_X$ are precursors for the formation of $PM_{2.5}$ and $NO_X$ is a precursor for ozone. Reducing these emissions will decrease the amount of such pollutants to which all affected populations are exposed.

**List of Subjects in 40 CFR Part 62**

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

Dated: April 7, 2015.

**Gina McCarthy,**

*Administrator.*

## PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

For the reasons stated in the preamble, Title 40, chapter I, part 62 of the Code of Federal Regulations (CFR) is proposed to be amended as follows:

■ 1. The authority citation for part 62 continues to read as follows:

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

■ 2. Part 62 is amended by adding subpart LLL to read as follows:

## Subpart LLL—Federal Plan Requirements for Sewage Sludge Incineration Units Constructed on or Before October 14, 2010

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**Applicability**

### § 62.15855 Am I subject to this subpart?

(a) You are subject to this subpart if your SSI unit meets all three criteria described in paragraphs (a)(1) through (3) of this section.

(1) You own or operate an SSI unit(s) that commenced construction on or before October 14, 2010.

(2) You own or operate an SSI unit(s) that meet the definition of an SSI unit as defined in § 62.16045.

(3) You own or operate an SSI unit(s) not exempt under § 62.15860.

(b) If you own or operator an SSI unit(s) and make changes that meet the definition of modification after September 21, 2011, the SSI unit becomes subject to 40 CFR part 60 subpart LLLL and the Federal Plan no longer applies to that unit.

(c) If you own or operate an SSI unit(s) and make physical or operational changes to the SSI unit(s) for which construction commenced on or before September 21, 2011 primarily to comply with the Federal Plan, 40 CFR part 60, subpart LLLL does not apply to the unit(s). Such changes do not qualify as modifications under 40 CFR part 60, subpart LLLL.

### § 62.15860 What SSI units are exempt from the Federal Plan?

This subpart exempts combustion units that incinerate sewage sludge and are not located at a wastewater treatment facility designed to treat domestic sewage sludge. These units may be subject to another subpart of this part (*e.g.,* subpart III of this part). If you own or operate such a combustion unit, you must notify the Administrator of an exemption claim under this section.

### § 62.15865 How do I determine if my SSI is covered by an approved and effective State or Tribal plan?

This part (40 CFR part 62) contains a list of all states and tribal areas with

approved Clean Air Act (CAA) section 111(d)/129 plans in effect. However, this part is only updated once a year. Thus, if this part does not indicate that your state or tribal area has an approved and effective plan, you should contact your state environmental agency's air director or your EPA Regional Office to determine if approval occurred since publication of the most recent version of this part. A state may also meet its CAA section 111(d)/129 obligations by submitting an acceptable written request for delegation of the Federal Plan that meets the requirements of this section. This is the only other option for a state to meet its 111(d)/129 obligations.

(a) An acceptable Federal Plan delegation request must include the following:

(1) A demonstration of adequate resources and legal authority to administer and enforce the Federal Plan.

(2) The items under §§ 60.5015(a)(1), (2), and (7).

(3) Certification that the hearing on the state delegation request, similar to the hearing for a state plan submittal, was held, a list of witnesses and their organizational affiliations, if any, appearing at the hearing, and a brief written summary of each presentation or written submission.

(4) A commitment to enter into a Memorandum of Agreement with the Regional Administrator who sets forth the terms, conditions and effective date of the delegation and that serves as the mechanism for the transfer of authority. Additional guidance and information is given in the EPA's ''Delegations Manual, Item 7–139, Implementation and Enforcement of 111(d)(2) and 111(d)(2)/129(b)(3) Federal Plans.''

(b) A state with an already approved SSI CAA section 111(d)/129 state plan is not precluded from receiving EPA approval of a delegation request for the Federal Plan, providing the requirements of paragraph (a) of this section are met, and at the time of the delegation request, the state also requests withdrawal of the EPA's previous state plan approval.

(c) A state's CAA section 111(d)/129 obligations are separate from its obligations under Title V of the CAA.

#### § 62.15870 If my SSI is not listed on the Federal Plan inventory, am I exempt from this subpart?

Not necessarily. Sources subject to this subpart include, but are not limited to, the inventory of sources listed in Docket ID Number EPA–HQ–OAR–2012–0319 for the Federal Plan. Review the applicability of § 62.15855 to determine if you are subject to this subpart.

### Compliance Schedules

#### § 62.15875 What is my final compliance date?

You must achieve final compliance specified by the dates in paragraphs (a) or (b) of this section:

(a) [*DATE 1 YEAR FROM DATE OF PUBLICATION OF THE FINAL RULE IN THE* ***Federal Register***].

(b) If you plan to achieve compliance more than 1 year following [*DATE 1 YEAR FROM DATE OF PUBLICATION OF THE FINAL RULE IN THE* ***Federal Register***], you must meet the two increments of progress specified in paragraphs (b)(1) and (2) of this section:

(1) Submit a final control plan; and

(2) Achieve final compliance.

#### § 62.15880 When must I complete each increment of progress?

Table 1 to this subpart specifies compliance dates for each increment of progress.

#### § 62.15885 What must I include in the notifications of achievement of increments of progress?

Your notification of achievement of increments of progress must include the three items specified in paragraphs (a) through (c) of this section:

(a) Notification that the increment of progress has been achieved;

(b) Any items required to be submitted with each increment of progress; and

(c) Signature of the owner or operator of the SSI unit.

#### § 62.15890 When must I submit the notifications of achievement of increments of progress?

Notifications for achieving increments of progress must be postmarked no later than 10 business days after the compliance date for the increment.

#### § 62.15895 What if I do not meet an increment of progress?

If you fail to meet an increment of progress, you must submit a notification to the Administrator postmarked within 10 business days after the date for that increment of progress in Table 1 to this subpart. You must inform the Administrator that you did not meet the increment, and you must continue to submit reports each subsequent calendar month until the increment of progress is met.

#### § 62.15900 How do I comply with the increment of progress for submittal of a control plan?

For your control plan increment of progress, you must satisfy the two requirements specified in paragraphs (a) and (b) of this section.

(a) Submit the final control plan to your EPA Regional Office and permitting authority or delegated authority that includes the four items described in paragraphs (a)(1) through (4) of this section:

(1) A description of the devices for air pollution control and process changes that you will use to comply with the emission limits and standards and other requirements of this subpart;

(2) The type(s) of waste to be burned, if waste other than sewage sludge is burned in the unit;

(3) The maximum design sewage sludge burning capacity; and

(4) If applicable, the petition for site-specific operating limits under § 62.15965.

(b) Maintain an onsite copy of the final control plan.

#### § 62.15905 How do I comply with the increment of progress for achieving final compliance?

For the final compliance increment of progress, you must complete all process changes and retrofit construction of control devices, as specified in the final control plan, so that, if the affected SSI unit is brought online, all necessary process changes and air pollution control devices would operate as designed.

#### § 62.15910 What must I do if I close my SSI unit and then restart it?

(a) If you close your SSI unit but will restart it prior to the final compliance date in your state plan, you must meet the increments of progress specified in § 62.15875.

(b) If you close your SSI unit but will restart it after your final compliance date, you must complete emission control retrofits and meet the emission limits, emission standards, and operating limits on the date your unit restarts operation.

#### § 62.15915 What must I do if I plan to permanently close my SSI unit and not restart it?

If you plan to close your SSI unit rather than comply with the Federal Plan, submit a closure notification, including the date of closure, to the Administrator by the date your final control plan is due.

### Operator Training and Qualification

#### § 62.15920 What are the operator training and qualification requirements?

(a) AN SSI unit cannot be operated unless a fully trained and qualified SSI unit operator is accessible, either at the facility or can be at the facility within 1 hour. The trained and qualified SSI unit operator may operate the SSI unit directly or be the direct supervisor of

one or more other plant personnel who operate the unit. If all qualified SSI unit operators are temporarily not accessible, you must follow the procedures in § 62.15945.

(b) Operator training and qualification must be obtained through a state-approved program or by completing the requirements included in paragraph (c) of this section.

(c) Training must be obtained by completing an incinerator operator training course that includes, at a minimum, the three elements described in paragraphs (c)(1) through (3) of this section:

(1) Training on the 10 subjects listed in paragraphs (c)(1)(i) through (x) of this section:

(i) Environmental concerns, including types of emissions;

(ii) Basic combustion principles, including products of combustion;

(iii) Operation of the specific type of incinerator to be used by the operator, including proper startup, sewage sludge feeding and shutdown procedures;

(iv) Combustion controls and monitoring;

(v) Operation of air pollution control equipment and factors affecting performance (if applicable);

(vi) Inspection and maintenance of the incinerator and air pollution control devices;

(vii) Actions to prevent malfunctions or to prevent conditions that may lead to malfunctions;

(viii) Bottom and fly ash characteristics and handling procedures;

(ix) Applicable federal, state and local regulations, including Occupational Safety and Health Administration workplace standards; and

(x) Pollution prevention.

(2) An examination designed and administered by the state-approved program or instructor administering the subjects in paragraph(c)(1) of this section.

(3) Written material covering the training course topics that may serve as reference material following completion of the course.

**§ 62.15925 When must the operator training course be completed?**

The operator training course must be completed by the later of the three dates specified in paragraphs (a) through (c) of this section:

(a) The final compliance date (Increment 2);

(b) Six months after your SSI unit startup; and

(c) Six months after an employee assumes responsibility for operating the SSI unit or assumes responsibility for supervising the operation of the SSI unit.

**§ 62.15930 How do I obtain my operator qualification?**

(a) You must obtain operator qualification by completing a training course that satisfies the criteria under § 62.15920(b).

(b) Qualification is valid from the date on which the training course is completed and the operator successfully passes the examination required under § 62.15920(c)(2).

**§ 62.15935 How do I maintain my operator qualification?**

To maintain qualification, you must complete an annual review or refresher course covering, at a minimum, the five topics described in paragraphs (a) through (e) of this section:

(a) Update of regulations;

(b) Incinerator operation, including startup and shutdown procedures, sewage sludge feeding and ash handling;

(c) Inspection and maintenance;

(d) Prevention of malfunctions or conditions that may lead to malfunction; and

(e) Discussion of operating problems encountered by attendees.

**§ 62.15940 How do I renew my lapsed operator qualification?**

You must renew a lapsed operator qualification before you begin operation of an SSI unit by one of the two methods specified in paragraphs (a) and (b) of this section:

(a) For a lapse of less than 3 years, you must complete a standard annual refresher course described in § 62.15935; and

(b) For a lapse of 3 years or more, you must repeat the initial qualification requirements in § 62.15920.

**§ 62.15945 What if all the qualified operators are temporarily not accessible?**

If a qualified operator is not at the facility and cannot be at the facility within 1 hour, you must meet the criteria specified in either paragraph (a) or (b) of this section, depending on the length of time that a qualified operator is not accessible:

(a) When a qualified operator is not accessible for more than 8 hours, the SSI unit may be operated for less than 2 weeks by other plant personnel who are familiar with the operation of the SSI unit and who have completed a review of the information specified in § 62.15950 within the past 12 months. However, you must record the period when a qualified operator was not accessible and include this deviation in the annual report as specified under § 62.16030(c).

(b) When a qualified operator is not accessible for 2 weeks or more, you must take the two actions that are described in paragraphs (b)(1) and (2) of this section:

(1) Notify the Administrator of this deviation in writing within 10 days. In the notice, state what caused this deviation, what you are doing to ensure that a qualified operator is accessible, and when you anticipate that a qualified operator will be accessible; and

(2) Submit a status report to the Administrator every 4 weeks outlining what you are doing to ensure that a qualified operator is accessible, stating when you anticipate that a qualified operator will be accessible and requesting approval from the Administrator to continue operation of the SSI unit. You must submit the first status report 4 weeks after you notify the Administrator of the deviation under paragraph (b)(1) of this section:

(i) If the Administrator notifies you that your request to continue operation of the SSI unit is disapproved, the SSI unit may continue operation for 30 days and then must cease operation; and

(ii) Operation of the unit may resume if a qualified operator is accessible as required under § 62.15920(a). You must notify the Administrator within 5 days of having resumed operations and of having a qualified operator accessible.

**§ 62.15950 What site-specific documentation is required and how often must it be reviewed by qualified operators and plant personnel?**

(a) You must maintain at the facility the documentation of the operator training procedures specified under § 62.15920(c)(1) and make the documentation readily accessible to all SSI unit operators.

(b) You must establish a program for reviewing the information listed in § 62.15920(c)(1) with each qualified incinerator operator and other plant personnel who may operate the unit according to the provisions of § 62.15945(a), according to the following schedule:

(1) The initial review of the information listed in § 62.15920(c)(1) must be conducted within 6 months after the effective date of this subpart or prior to an employee's assumption of responsibilities for operation of the SSI unit, whichever date is later; and

(2) Subsequent annual reviews of the information listed in § 62.15920(c)(1) must be conducted no later than 12 months following the previous review.

**Emission Limits, Emission Standards, and Operating Limits and Requirements**

**§ 62.15955 What emission limits and standards must I meet and by when?**

You must meet the emission limits and standards specified in Table 2 or 3 to this subpart by the final compliance date specified in § 62.15880. The emission limits and standards apply at all times the unit is operating and during periods of malfunction. The emission limits and standards apply to emissions from a bypass stack or vent while sewage sludge is in the combustion chamber (*i.e.,* until the sewage sludge feed to the combustor has been cut off for a period of time not less than the sewage sludge incineration residence time).

**§ 62.15960 What operating limits and requirements must I meet and by when?**

You must meet, as applicable, the operating limits and requirements specified in paragraphs (a) through (d) and (h) of this section, according to the schedule specified in paragraph (e) of this section. The operating parameters for which you will establish operating limits for a wet scrubber, fabric filter, electrostatic precipitator or activated carbon injection are listed in Table 4 to this subpart. You must comply with the operating requirements in paragraph (f) of this section and the requirements in paragraph (g) of this section for meeting any new operating limits, re-established in § 62.16005. The operating limits apply at all times that sewage sludge is in the combustion chamber (*i.e.,* until the sewage sludge feed to the combustor has been cut off for a period of time not less than the sewage sludge incineration residence time):

(a) You must meet a site-specific operating limit for minimum operating temperature of the combustion chamber (or afterburner combustion chamber) that you establish in § 62.15985;

(b) If you use a wet scrubber, electrostatic precipitator, activated carbon injection or afterburner to comply with an emission limit, you must meet the site-specific operating limits that you establish in § 62.15985 for each operating parameter associated with each air pollution control device;

(c) If you use a fabric filter to comply with the emission limits, you must install the bag leak detection system specified in §§ 62.15995(b) and 62.16020(b)(3)(i) and operate the bag leak detection system such that the alarm does not sound more than 5 percent of the operating time during a 6-month period. You must calculate the alarm time as specified in § 62.16005(a)(2)(i);

(d) You must meet the operating requirements in your site-specific fugitive emission monitoring plan, submitted as specified in § 62.15995(d) to ensure that your ash handling system will meet the emission standard for fugitive emissions from ash handling;

(e) You must meet the operating limits and requirements specified in paragraphs (a) through (d) of this section by the final compliance date specified in § 62.15880;

(f) You must monitor the feed rate and moisture content of the sewage sludge fed to the sewage sludge incinerator, as specified in paragraphs (f)(1) and (2) of this section:

(1) Continuously monitor the sewage sludge feed rate and calculate a daily average for all hours of operation during each 24-hour period. Keep a record of the daily average feed rate, as specified in § 62.16025(f)(3)(ii); and

(2) Take at least one grab sample per day of the sewage sludge fed to the sewage sludge incinerator. If you take more than one grab sample in a day, calculate the daily average for the grab samples. Keep a record of the daily average moisture content, as specified in § 62.16025(f)(3)(ii).

(g) For the operating limits and requirements specified in paragraphs (a) through (d) and (h) of this section, you must meet any new operating limits and requirements, re-established according to § 62.16005(d)); and

(h) If you use an air pollution control device other than a wet scrubber, fabric filter, electrostatic precipitator or activated carbon injection to comply with the emission limits in Table 2 or 3 to this subpart, you must meet any site-specific operating limits or requirements that you establish as required in § 62.15965.

**§ 62.15965 How do I establish operating limits if I do not use a wet scrubber, fabric filter, electrostatic precipitator, activated carbon injection, or afterburner, or if I limit emissions in some other manner, to comply with the emission limits?**

If you use an air pollution control device other than a wet scrubber, fabric filter, electrostatic precipitator, activated carbon injection, or afterburner, or limit emissions in some other manner (*e.g.,* materials balance) to comply with the emission limits in § 62.15955, you must meet the requirements in paragraphs (a) and (b) of this section:

(a) Meet the applicable operating limits and requirements in § 60.4850, and establish applicable operating limits according to § 62.15985; and

(b) Petition the Administrator for specific operating parameters, operating limits, and averaging periods to be established during the initial performance test and to be monitored continuously thereafter.

(1) You are responsible for submitting any supporting information in a timely manner to enable the Administrator to consider the application prior to the performance test. You must not conduct the initial performance test until after the petition has been approved by the Administrator, and you must comply with the operating limits as written, pending approval by the Administrator. Neither submittal of an application, nor the Administrator's failure to approve or disapprove the application relieves you of the responsibility to comply with any provision of this subpart;

(2) Your petition must include the five items listed in paragraphs (b)(2)(i) through(v) of this section:

(i) Identification of the specific parameters you propose to monitor;

(ii) A discussion of the relationship between these parameters and emissions of regulated pollutants, identifying how emissions of regulated pollutants change with changes in these parameters, and how limits on these parameters will serve to limit emissions of regulated pollutants;

(iii) A discussion of how you will establish the upper and/or lower values for these parameters that will establish the operating limits on these parameters, including a discussion of the averaging periods associated with those parameters for determining compliance;

(iv) A discussion identifying the methods you will use to measure and the instruments you will use to monitor these parameters, as well as the relative accuracy and precision of these methods and instruments; and

(v) A discussion identifying the frequency and methods for recalibrating the instruments you will use for monitoring these parameters.

**§ 62.15970 Do the emission limits, emission standards, and operating limits apply during periods of startup, shutdown and malfunction?**

The emission limits and standards apply at all times and during periods of malfunction. The operating limits apply at all times that sewage sludge is in the combustion chamber (*i.e.,* until the sewage sludge feed to the combustor has been cut off for a period of time not less than the sewage sludge incineration residence time). For determining compliance with the CO concentration limit using CO CEMS, the correction to 7 percent oxygen does not apply during

periods of startup or shutdown. Use the measured CO concentration without correcting for oxygen concentration in averaging with other CO concentrations (corrected to 7 percent $O_2$) to determine the 24-hour average value.

**§ 62.15975 [Reserved]**

## Initial Compliance Requirements

**§ 62.15980 How and when do I demonstrate initial compliance with the emission limits and standards?**

To demonstrate initial compliance with the emission limits and standards in Table 2 or 3 to this subpart, use the procedures specified in paragraph (a) of this section. In lieu of using the procedures specified in paragraph (a) of this section, you have the option to demonstrate initial compliance using the procedures specified in paragraph (b) of this section for particulate matter, hydrogen chloride, carbon monoxide, dioxins/furans (total mass basis or toxic equivalency basis), mercury, nitrogen oxides, sulfur dioxide, cadmium, lead and fugitive emissions from ash handling. You must meet the requirements of paragraphs (a) and (b) of this section, as applicable, and paragraphs (c) through (e) of this section, according to the performance testing, monitoring, and calibration requirements in § 62.16015(a) and (b).

(a) Demonstrate initial compliance using the performance test required in § 60.8. You must demonstrate that your SSI unit meets the emission limits and standards specified in Table 2 or 3 to this subpart for particulate matter, hydrogen chloride, carbon monoxide, dioxins/furans (total mass basis or toxic equivalency basis), mercury, nitrogen oxides, sulfur dioxide, cadmium, lead and fugitive emissions from ash handling using the performance test. The initial performance test must be conducted using the test methods, averaging methods, and minimum sampling volumes or durations specified in Table 2 or 3 to this subpart and according to the testing, monitoring, and calibration requirements specified in § 62.16015(a).

(1) Except as provided in paragraph (e) of this section, you must demonstrate that your SSI unit meets the emission limits and standards specified in Table 2 or 3 to this subpart by the final compliance date (see Table 1 to this subpart).

(2) You may use the results from a performance test conducted within the 2 previous years that was conducted under the same conditions and demonstrated compliance with the emission limits and standards in Table 2 or 3 to this subpart, provided no process changes have been made since you conducted that performance test. However, you must continue to meet the operating limits established during the most recent performance test that demonstrated compliance with the emission limits and standards in Table 2 or 3 to this subpart. The performance test must have used the test methods specified in Table 2 or 3 to this subpart.

(b) Demonstrate initial compliance using a continuous emissions monitoring system or continuous automated sampling system. The option to use a continuous emissions monitoring system for hydrogen chloride, dioxins/furans, cadmium, or lead takes effect on the date a final performance specification applicable to hydrogen chloride, dioxins/furans, cadmium or lead is published in the **Federal Register**. The option to use a continuous automated sampling system for dioxins/furans takes effect on the date a final performance specification for such a continuous automated sampling system is published in the **Federal Register**. Collect data as specified in § 62.16015(b)(6) and use the following procedures:

(1) To demonstrate initial compliance with the emission limits specified in Table 2 or 3 to this subpart for particulate matter, hydrogen chloride, carbon monoxide, dioxins/furans (total mass basis or toxic equivalency basis), mercury, nitrogen oxides, sulfur dioxide, cadmium and lead, you may substitute the use of a continuous monitoring system in lieu of conducting the initial performance test required in paragraph (a) of this section, as follows:

(i) You may substitute the use of a continuous emissions monitoring system for any pollutant specified in paragraph (b)(1) of this section in lieu of conducting the initial performance test for that pollutant in paragraph (a) of this section. For determining compliance with the carbon monoxide concentration limit using carbon monoxide CEMS, the correction to 7 percent oxygen does not apply during periods of startup or shutdown. Use the measured carbon monoxide concentration without correcting for oxygen concentration in averaging with other carbon monoxide concentrations (corrected to 7 percent oxygen) to determine the 24-hour average value.

(ii) You may substitute the use of a continuous automated sampling system for mercury or dioxins/furans in lieu of conducting the annual mercury or dioxin/furan performance test in paragraph (a) of this section.

(2) If you use a continuous emissions monitoring system to demonstrate compliance with an applicable emission limit in Table 2 or 3 to this subpart, as described in paragraph (b)(1) of this section, you must use the continuous emissions monitoring system and follow the requirements specified in § 62.16015(b). You must measure emissions according to § 60.13 to calculate 1-hour arithmetic averages, corrected to 7 percent oxygen (or carbon dioxide). You must demonstrate initial compliance using a 24-hour block average of these 1-hour arithmetic average emission concentrations, calculated using Equation 19–19 in section 12.4.1 of Method 19 of 40 CFR part 60, appendix A–7.

(3) If you use a continuous automated sampling system to demonstrate compliance with an applicable emission limit in Table 2 or 3 to this subpart, as described in paragraph (b)(1) of this section, you must:

(i) Use the continuous automated sampling system specified in § 60.58b(p) and (q), and measure and calculate average emissions corrected to 7 percent oxygen (or carbon dioxide) according to § 60.58b(p) and your monitoring plan.

(A) Use the procedures specified in § 60.58b(p) to calculate 24-hour block averages to determine compliance with the mercury emission limit in Table 2 or 3 to this subpart.

(B) Use the procedures specified in § 60.58b(p) to calculate 2-week block averages to determine compliance with the dioxin/furan (total mass basis or toxic equivalency basis) emission limit in Table 2 or 3 to this subpart.

(ii) Comply with the provisions in § 60.58b(q) to develop a monitoring plan. For mercury continuous automated sampling systems, you must use Performance Specification 12B of appendix B of part 75 and Procedure 5 of appendix F of part 60.

(4) Except as provided in paragraph (e) of this section, you must complete your initial performance evaluations required under your monitoring plan for any continuous emissions monitoring systems and continuous automated sampling systems by the final compliance date (see Table 1 to this subpart). Your performance evaluation must be conducted using the procedures and acceptance criteria specified in § 62.15995(a)(3).

(c) To demonstrate initial compliance with the dioxins/furans toxic equivalency emission limit in Table 2 or 3 to this subpart, determine dioxins/furans toxic equivalency as follows:

(1) Measure the concentration of each dioxin/furan tetra- through octachlorinated-isomer emitted using EPA Method 23 at 40 CFR part 60, appendix A–7.

(2) Multiply the concentration of each dioxin/furan (tetra- through octa-chlorinated) isomer by its corresponding toxic equivalency factor specified in Table 5 to this subpart.

(3) Sum the products calculated in accordance with paragraph (c)(2) of this section to obtain the total concentration of dioxins/furans emitted in terms of toxic equivalency.

(d) Submit an initial compliance report, as specified in § 62.16030(b).

(e) If you demonstrate initial compliance using the performance test specified in paragraph (a) of this section, then the provisions of this paragraph (e) apply. If a force majeure is about to occur, occurs or has occurred for which you intend to assert a claim of force majeure, you must notify the Administrator in writing as specified in § 62.16030(f). You must conduct the initial performance test as soon as practicable after the force majeure occurs. The Administrator will determine whether or not to grant the extension to the initial performance test deadline and will notify you in writing of approval or disapproval of the request for an extension as soon as practicable. Until an extension of the performance test deadline has been approved by the Administrator, you remain strictly subject to the requirements of this subpart.

**§ 62.15985 How do I establish my operating limits?**

(a) You must establish the site-specific operating limits specified in paragraphs (b) through (h) of this section or established in § 62.15965, as applicable, during your initial performance tests required in § 62.15980. You must meet the requirements in § 62.16005(d) to confirm these operating limits or re-establish new operating limits using operating data recorded during any performance tests or performance evaluations required in § 62.16000. You must follow the data measurement and recording frequencies and data averaging times specified in Table 4 to this subpart or as established in § 62.15965, and you must follow the testing, monitoring and calibration requirements specified in §§ 62.16015 and 62.16020 or established in § 62.15965. You are not required to establish operating limits for the operating parameters listed in Table 4 to this subpart for a control device if you use a continuous monitoring system to demonstrate compliance with the emission limits in Table 2 or 3 to this subpart for the applicable pollutants, as follows:

(1) For a scrubber designed to control emissions of hydrogen chloride or sulfur dioxide, you are not required to establish an operating limit and monitor scrubber liquid flow rate or scrubber liquid pH if you use the continuous monitoring system specified in §§ 60.4865(b) and 60.4885(b) to demonstrate compliance with the emission limit for hydrogen chloride or sulfur dioxide.

(2) For a scrubber designed to control emissions of particulate matter, cadmium and lead, you are not required to establish an operating limit and monitor pressure drop across the scrubber or scrubber liquid flow rate if you use the continuous monitoring system specified in §§ 60.4865(b) and 60.4885(b) to demonstrate compliance with the emission limit for particulate matter, cadmium and lead.

(3) For an electrostatic precipitator designed to control emissions of particulate matter, cadmium and lead, you are not required to establish an operating limit and monitor secondary voltage of the collection plates, secondary amperage of the collection plates or effluent water flow rate at the outlet of the electrostatic precipitator if you use the continuous monitoring system specified in §§ 60.4865(b) and 60.4885(b) to demonstrate compliance with the emission limit for particulate matter, lead and cadmium.

(4) For an activated carbon injection system designed to control emissions of mercury, you are not required to establish an operating limit and monitor sorbent injection rate and carrier gas flow rate (or carrier gas pressure drop) if you use the continuous monitoring system specified in §§ 60.4865(b) and 60.4885(b) to demonstrate compliance with the emission limit for mercury.

(5) For an activated carbon injection system designed to control emissions of dioxins/furans, you are not required to establish an operating limit and monitor sorbent injection rate and carrier gas flow rate (or carrier gas pressure drop) if you use the continuous monitoring system specified in §§ 60.4865(b) and 60.4885(b) to demonstrate compliance with the emission limit for dioxins/furans (total mass basis or toxic equivalency basis).

(b) Minimum pressure drop across each wet scrubber used to meet the particulate matter, lead and cadmium emission limits in Table 2 or 3 to this subpart, equal to the lowest 4-hour average pressure drop across each such wet scrubber measured during the most recent performance test demonstrating compliance with the particulate matter, lead and cadmium emission limits.

(c) Minimum scrubber liquid flow rate (measured at the inlet to each wet scrubber), equal to the lowest 4-hour average liquid flow rate measured during the most recent performance test demonstrating compliance with all applicable emission limits.

(d) Minimum scrubber liquid pH for each wet scrubber used to meet the sulfur dioxide or hydrogen chloride emission limits in Table 2 or 3 to this subpart, equal to the lowest 1-hour average scrubber liquid pH measured during the most recent performance test demonstrating compliance with the sulfur dioxide and hydrogen chloride emission limits.

(e) Minimum combustion chamber operating temperature (or minimum afterburner temperature), equal to the lowest 4-hour average combustion chamber operating temperature (or afterburner temperature) measured during the most recent performance test demonstrating compliance with all applicable emission limits.

(f) Minimum power input to the electrostatic precipitator collection plates, equal to the lowest 4-hour average secondary electric power measured during the most recent performance test demonstrating compliance with the particulate matter, lead and cadmium emission limits. Power input must be calculated as the product of the secondary voltage and secondary amperage to the electrostatic precipitator collection plates. Both the secondary voltage and secondary amperage must be recorded during the performance test.

(g) Minimum effluent water flow rate at the outlet of the electrostatic precipitator, equal to the lowest 4-hour average effluent water flow rate at the outlet of the electrostatic precipitator measured during the most recent performance test demonstrating compliance with the particulate matter, lead and cadmium emission limits.

(h) For activated carbon injection, establish the site-specific operating limits specified in paragraphs (h)(1) through (3) of this section.

(1) Minimum mercury sorbent injection rate, equal to the lowest 4-hour average mercury sorbent injection rate measured during the most recent performance test demonstrating compliance with the mercury emission limit.

(2) Minimum dioxin/furan sorbent injection rate, equal to the lowest 4-hour average dioxin/furan sorbent injection rate measured during the most recent performance test demonstrating compliance with the dioxin/furan (total mass basis or toxic equivalency basis) emission limit.

(3) Minimum carrier gas flow rate or minimum carrier gas pressure drop, as follows:

(i) Minimum carrier gas flow rate, equal to the lowest 4-hour average carrier gas flow rate measured during the most recent performance test demonstrating compliance with the applicable emission limit.

(ii) Minimum carrier gas pressure drop, equal to the lowest 4-hour average carrier gas flow rate measured during the most recent performance test demonstrating compliance with the applicable emission limit.

**§ 62.15990 By what date must I conduct the initial air pollution control device inspection and make any necessary repairs?**

(a) You must conduct an air pollution control device inspection according to § 62.16015(c) by the final compliance date as specified in § 62.15880. For air pollution control devices installed after the final compliance date, you must conduct the air pollution control device inspection within 60 days after installation of the control device.

(b) Within 10 operating days following the air pollution control device inspection under paragraph (a) of this section, all necessary repairs must be completed unless you obtain written approval from the Administrator establishing a date whereby all necessary repairs of the SSI unit must be completed.

**§ 62.15995 How do I develop a site-specific monitoring plan for my continuous monitoring, bag leak detection, and ash handling systems, and by what date must I conduct an initial performance evaluation?**

You must develop and submit to the Administrator for approval a site-specific monitoring plan for each continuous monitoring system required under this subpart, according to the requirements in paragraphs (a) through (c) of this section. This requirement also applies to you if you petition the Administrator for alternative monitoring parameters under § 60.13(i) and paragraph (e) of this section. If you use a continuous automated sampling system to comply with the mercury or dioxin/furan (total mass basis or toxic equivalency basis) emission limits, you must develop your monitoring plan as specified in § 60.58b(q), and you are not required to meet the requirements in paragraphs (a) and (b) of this section. You must also submit a site-specific monitoring plan for your ash handling system, as specified in paragraph (d) of this section. You must submit and update your monitoring plans as specified in paragraphs (f) through (h) of this section.

(a) For each continuous monitoring system, your monitoring plan must address the elements and requirements specified in paragraphs (a)(1) through (8) of this section. You must operate and maintain the continuous monitoring system in continuous operation according to the site-specific monitoring plan.

(1) Installation of the continuous monitoring system sampling probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (*e.g.,* on or downstream of the last control device).

(2) Performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer and the data collection and reduction systems.

(3) Performance evaluation procedures and acceptance criteria (*e.g.,* calibrations).

(i) For continuous emissions monitoring systems, your performance evaluation and acceptance criteria must include, but is not limited to, the following:

(A) The applicable requirements for continuous emissions monitoring systems specified in § 60.13.

(B) The applicable performance specifications (*e.g.,* relative accuracy tests) in appendix B of part 60.

(C) The applicable procedures (*e.g.,* quarterly accuracy determinations and daily calibration drift tests) in appendix F of part 60.

(D) A discussion of how the occurrence and duration of out-of-control periods will affect the suitability of CEMS data, where out-of-control has the meaning given in paragraph (a)(7)(i) of this section.

(ii) For continuous parameter monitoring systems, your performance evaluation and acceptance criteria must include, but is not limited to, the following:

(A) If you have an operating limit that requires the use of a flow monitoring system, you must meet the requirements in paragraphs (a)(3)(ii)(A)(*1*) through (*4*) of this section.

(*1*) Install the flow sensor and other necessary equipment in a position that provides a representative flow.

(*2*) Use a flow sensor with a measurement sensitivity of no greater than 2 percent of the expected process flow rate.

(*3*) Minimize the effects of swirling flow or abnormal velocity distributions due to upstream and downstream disturbances.

(*4*) Conduct a flow monitoring system performance evaluation in accordance with your monitoring plan at the time of each performance test but no less frequently than annually.

(B) If you have an operating limit that requires the use of a pressure monitoring system, you must meet the requirements in paragraphs (a)(3)(ii)(B)(*1*) through (*6*) of this section.

(*1*) Install the pressure sensor(s) in a position that provides a representative measurement of the pressure (*e.g.,* particulate matter scrubber pressure drop).

(*2*) Minimize or eliminate pulsating pressure, vibration, and internal and external corrosion.

(*3*) Use a pressure sensor with a minimum tolerance of 1.27 centimeters of water or a minimum tolerance of 1 percent of the pressure monitoring system operating range, whichever is less.

(*4*) Perform checks at least once each process operating day to ensure pressure measurements are not obstructed (*e.g.,* check for pressure tap pluggage daily).

(*5*) Conduct a performance evaluation of the pressure monitoring system in accordance with your monitoring plan at the time of each performance test but no less frequently than annually.

(*6*) If at any time the measured pressure exceeds the manufacturer's specified maximum operating pressure range, conduct a performance evaluation of the pressure monitoring system in accordance with your monitoring plan and confirm that the pressure monitoring system continues to meet the performance requirements in your monitoring plan. Alternatively, install and verify the operation of a new pressure sensor.

(C) If you have an operating limit that requires a pH monitoring system, you must meet the requirements in paragraphs (a)(3)(ii)(C)(*1*) through (*4*) of this section.

(*1*) Install the pH sensor in a position that provides a representative measurement of scrubber effluent pH.

(*2*) Ensure the sample is properly mixed and representative of the fluid to be measured.

(*3*) Conduct a performance evaluation of the pH monitoring system in accordance with your monitoring plan at least once each process operating day.

(*4*) Conduct a performance evaluation (including a two-point calibration with one of the two buffer solutions having a pH within 1 of the operating limit pH level) of the pH monitoring system in accordance with your monitoring plan at the time of each performance test but no less frequently than quarterly.

(D) If you have an operating limit that requires the use of a temperature measurement device, you must meet the

requirements in paragraphs (a)(3)(ii)(D)(*1*) through (*4*) of this section.

(*1*) Install the temperature sensor and other necessary equipment in a position that provides a representative temperature.

(*2*) Use a temperature sensor with a minimum tolerance of 2.8 degrees Celsius (5 degrees Fahrenheit), or 1.0 percent of the temperature value, whichever is larger, for a noncryogenic temperature range.

(*3*) Use a temperature sensor with a minimum tolerance of 2.8 degrees Celsius (5 degrees Fahrenheit), or 2.5 percent of the temperature value, whichever is larger, for a cryogenic temperature range.

(*4*) Conduct a temperature measurement device performance evaluation at the time of each performance test but no less frequently than annually.

(E) If you have an operating limit that requires a secondary electric power monitoring system for an electrostatic precipitator, you must meet the requirements in paragraphs (a)(3)(ii)(E)(*1*) and (*2*) of this section.

(*1*) Install sensors to measure (secondary) voltage and current to the electrostatic precipitator collection plates.

(*2*) Conduct a performance evaluation of the electric power monitoring system in accordance with your monitoring plan at the time of each performance test but no less frequently than annually.

(F) If you have an operating limit that requires the use of a monitoring system to measure sorbent injection rate (*e.g.,* weigh belt, weigh hopper or hopper flow measurement device), you must meet the requirements in paragraphs (a)(3)(ii)(F)(*1*) and (*2*) of this section.

(*1*) Install the system in a position(s) that provides a representative measurement of the total sorbent injection rate.

(*2*) Conduct a performance evaluation of the sorbent injection rate monitoring system in accordance with your monitoring plan at the time of each performance test but no less frequently than annually.

(4) Ongoing operation and maintenance procedures in accordance with the general requirements of § 60.11(d).

(5) Ongoing data quality assurance procedures in accordance with the general requirements of § 60.13.

(6) Ongoing recordkeeping and reporting procedures in accordance with the general requirements of § 60.7(b), (c), (c)(1), (c)(4), (d), (e), (f) and (g).

(7) Provisions for periods when the continuous monitoring system is out of control, as follows:

(i) A continuous monitoring system is out of control if the conditions of paragraph (a)(7)(i)(A) or (i)(B) of this section are met.

(A) The zero (low-level), mid-level (if applicable), or high-level calibration drift exceeds two times the applicable calibration drift specification in the applicable performance specification or in the relevant standard.

(B) The continuous monitoring system fails a performance test audit (*e.g.,* cylinder gas audit), relative accuracy audit, relative accuracy test audit or linearity test audit.

(ii) When the continuous monitoring system is out of control as specified in paragraph (a)(7)(i) of this section, you must take the necessary corrective action and must repeat all necessary tests that indicate that the system is out of control. You must take corrective action and conduct retesting until the performance requirements are below the applicable limits. The beginning of the out-of-control period is the hour you conduct a performance check (*e.g.,* calibration drift) that indicates an exceedance of the performance requirements established under this part. The end of the out-of-control period is the hour following the completion of corrective action and successful demonstration that the system is within the allowable limits.

(8) Schedule for conducting initial and periodic performance evaluations of your continuous monitoring systems.

(b) If a bag leak detection system is used, your monitoring plan must include a description of the following items:

(1) Installation of the bag leak detection system in accordance with paragraphs (b)(1)(i) and (ii) of this section.

(i) Install the bag leak detection sensor(s) in a position(s) that will be representative of the relative or absolute particulate matter loadings for each exhaust stack, roof vent or compartment (*e.g.,* for a positive pressure fabric filter) of the fabric filter.

(ii) Use a bag leak detection system certified by the manufacturer to be capable of detecting particulate matter emissions at concentrations of 10 milligrams per actual cubic meter or less.

(2) Initial and periodic adjustment of the bag leak detection system, including how the alarm set-point will be established. Use a bag leak detection system equipped with a system that will sound an alarm when the system detects an increase in relative particulate matter emissions over a preset level. The alarm must be located where it is observed readily and any alert is detected and recognized easily by plant operating personnel.

(3) Evaluations of the performance of the bag leak detection system, performed in accordance with your monitoring plan and consistent with the guidance provided in Fabric Filter Bag Leak Detection Guidance, EPA–454/R–98–015, September 1997 (incorporated by reference, see § 60.17).

(4) Operation of the bag leak detection system, including quality assurance procedures.

(5) Maintenance of the bag leak detection system, including a routine maintenance schedule and spare parts inventory list.

(6) Recordkeeping (including record retention) of the bag leak detection system data. Use a bag leak detection system equipped with a device to continuously record the output signal from the sensor.

(c) You must conduct an initial performance evaluation of each continuous monitoring system and bag leak detection system, as applicable, in accordance with your monitoring plan and to § 60.13(c). For the purpose of this subpart, the provisions of § 60.13(c) also apply to the bag leak detection system. You must conduct the initial performance evaluation of each continuous monitoring system within 60 days of installation of the monitoring system.

(d) You must submit a monitoring plan specifying the ash handling system operating procedures that you will follow to ensure that you meet the fugitive emissions limit specified in Table 2 or 3 to this subpart.

(e) You may submit an application to the Administrator for approval of alternate monitoring requirements to demonstrate compliance with the standards of this subpart, subject to the provisions of paragraphs (e)(1) through (6) of this section.

(1) The Administrator will not approve averaging periods other than those specified in this section, unless you document, using data or information, that the longer averaging period will ensure that emissions do not exceed levels achieved over the duration of three performance test runs.

(2) If the application to use an alternate monitoring requirement is approved, you must continue to use the original monitoring requirement until approval is received to use another monitoring requirement.

(3) You must submit the application for approval of alternate monitoring requirements no later than the

notification of performance test. The application must contain the information specified in paragraphs (e)(3)(i) through (iii) of this section:

(i) Data or information justifying the request, such as the technical or economic infeasibility, or the impracticality of using the required approach.

(ii) A description of the proposed alternative monitoring requirement, including the operating parameter to be monitored, the monitoring approach and technique, the averaging period for the limit, and how the limit is to be calculated.

(iii) Data or information documenting that the alternative monitoring requirement would provide equivalent or better assurance of compliance with the relevant emission standard.

(4) The Administrator will notify you of the approval or denial of the application within 90 calendar days after receipt of the original request, or within 60 calendar days of the receipt of any supplementary information, whichever is later. The Administrator will not approve an alternate monitoring application unless it would provide equivalent or better assurance of compliance with the relevant emission standard. Before disapproving any alternate monitoring application, the Administrator will provide the following:

(i) Notice of the information and findings upon which the intended disapproval is based.

(ii) Notice of opportunity for you to present additional supporting information before final action is taken on the application. This notice will specify how much additional time is allowed for you to provide additional supporting information.

(5) You are responsible for submitting any supporting information in a timely manner to enable the Administrator to consider the application prior to the performance test. Neither submittal of an application, nor the Administrator's failure to approve or disapprove the application relieves you of the responsibility to comply with any provision of this subpart.

(6) The Administrator may decide at any time, on a case-by-case basis, that additional or alternative operating limits, or alternative approaches to establishing operating limits, are necessary to demonstrate compliance with the emission standards of this subpart.

(f) You must submit your monitoring plans required in paragraphs (a) and (b) of this section at least 60 days before your initial performance evaluation of your continuous monitoring system(s).

(g) You must submit your monitoring plan for your ash handling system, as required in paragraph (d) of this section, at least 60 days before your initial compliance test date.

(h) You must update and resubmit your monitoring plan if there are any changes or potential changes in your monitoring procedures or if there is a process change, as defined in § 62.16045.

## Continuous Compliance Requirements

### § 62.16000 How and when do I demonstrate continuous compliance with the emission limits and standards?

To demonstrate continuous compliance with the emission limits and standards specified in Table 2 or 3 to this subpart, use the procedures specified in paragraph (a) of this section. In lieu of using the procedures specified in paragraph (a) of this section, you have the option to demonstrate initial compliance using the procedures specified in paragraph (b) of this section for particulate matter, hydrogen chloride, carbon monoxide, dioxins/furans (total mass basis or toxic equivalency basis), mercury, nitrogen oxides, sulfur dioxide, cadmium, lead and fugitive emissions from ash handling. You must meet the requirements of paragraphs (a) and (b) of this section, as applicable, and paragraphs (c) through (e) of this section, according to the performance testing, monitoring, and calibration requirements in § 62.16015(a) and (b). You may also petition the Administrator for alternative monitoring parameters as specified in paragraph (f) of this section.

(a) Demonstrate continuous compliance using a performance test. Except as provided in paragraphs (a)(3) and (e) of this section, following the date that the initial performance test for each pollutant in Table 2 or 3 to this subpart is completed, you must conduct a performance test for each such pollutant on an annual basis (between 11 and 13 calendar months following the previous performance test). The performance test must be conducted using the test methods, averaging methods, and minimum sampling volumes or durations specified in Table 2 or 3 to this subpart and according to the testing, monitoring and calibration requirements specified in § 62.16015(a).

(1) You may conduct a repeat performance test at any time to establish new values for the operating limits to apply from that point forward. The Administrator may request a repeat performance test at any time.

(2) You must repeat the performance test within 60 days of a process change, as defined in § 62.16045.

(3) Except as specified in paragraphs (a)(1) and (2) of this section, you can conduct performance tests less often for a given pollutant, as specified in paragraphs (a)(3)(i) through (iii) of this section.

(i) You can conduct performance tests less often if your performance tests for the pollutant for at least 2 consecutive years show that your emissions are at or below 75 percent of the emission limit specified in Table 2 or 3 to this subpart, and there are no changes in the operation of the affected source or air pollution control equipment that could increase emissions. In this case, you do not have to conduct a performance test for that pollutant for the next 2 years. You must conduct a performance test during the third year and no more than 37 months after the previous performance test.

(ii) If your SSI unit continues to meet the emission limit for the pollutant, you may choose to conduct performance tests for the pollutant every third year if your emissions are at or below 75 percent of the emission limit, and if there are no changes in the operation of the affected source or air pollution control equipment that could increase emissions, but each such performance test must be conducted no more than 37 months after the previous performance test.

(iii) If a performance test shows emissions exceeded 75 percent of the emission limit for a pollutant, you must conduct annual performance tests for that pollutant until all performance tests over 2 consecutive years show compliance.

(b) Demonstrate continuous compliance using a continuous emissions monitoring system or continuous automated sampling system. The option to use a continuous emissions monitoring system for hydrogen chloride, dioxins/furans, cadmium or lead takes effect on the date a final performance specification applicable to hydrogen chloride, dioxins/furans, cadmium or lead is published in the **Federal Register**. The option to use a continuous automated sampling system for dioxins/furans takes effect on the date a final performance specification for such a continuous automated sampling system is published in the **Federal Register**. Collect data as specified in § 62.16015(b)(6) and use the following procedures:

(1) To demonstrate continuous compliance with the emission limits for particulate matter, hydrogen chloride, carbon monoxide, dioxins/furans (total mass basis or toxic equivalency basis), mercury, nitrogen oxides, sulfur

dioxide, cadmium and lead, you may substitute the use of a continuous monitoring system in lieu of conducting the annual performance test required in paragraph (a) of this section, as follows:

(i) You may substitute the use of a continuous emissions monitoring system for any pollutant specified in paragraph (b)(1) of this section in lieu of conducting the annual performance test for that pollutant in paragraph (a) of this section. For determining compliance with the carbon monoxide concentration limit using carbon monoxide CEMS, the correction to 7 percent oxygen does not apply during periods of startup or shutdown. Use the measured carbon monoxide concentration without correcting for oxygen concentration in averaging with other carbon monoxide concentrations (corrected to 7 percent oxygen) to determine the 24-hour average value.

(ii) You may substitute the use of a continuous automated sampling system for mercury or dioxins/furans in lieu of conducting the annual mercury or dioxin/furan performance test in paragraph (a) of this section.

(2) If you use a continuous emissions monitoring system to demonstrate compliance with an applicable emission limit in paragraph (b)(1) of this section, you must use the continuous emissions monitoring system and follow the requirements specified in § 62.16015(b). You must measure emissions according to § 60.13 to calculate 1-hour arithmetic averages, corrected to 7 percent oxygen (or carbon dioxide). You must demonstrate initial compliance using a 24-hour block average of these 1-hour arithmetic average emission concentrations, calculated using Equation 19–19 in section 12.4.1 of Method 19 of 40 CFR part 60, appendix A–7.

(3) If you use a continuous automated sampling system to demonstrate compliance with an applicable emission limit in paragraph (b)(1) of this section, you must:

(i) Use the continuous automated sampling system specified in § 60.58b(p) and (q), and measure and calculate average emissions corrected to 7 percent oxygen (or carbon dioxide) according to § 60.58b(p) and your monitoring plan.

(A) Use the procedures specified in § 60.58b(p) to calculate 24-hour averages to determine compliance with the mercury emission limit in Table 2 or 3 to this subpart.

(B) Use the procedures specified in § 60.58b(p) to calculate 2-week averages to determine compliance with the dioxin/furan (total mass basis or toxic equivalency basis) emission limits in Table 2 or 3 to this subpart.

(ii) Update your monitoring plan as specified in § 60.4880(e). For mercury continuous automated sampling systems, you must use Performance Specification 12B of appendix B of part 75 and Procedure 5 of appendix F of part 60.

(4) Except as provided in paragraph (e) of this section, you must complete your periodic performance evaluations required in your monitoring plan for any continuous emissions monitoring systems and continuous automated sampling systems, according to the schedule specified in your monitoring plan. If you were previously determining compliance by conducting an annual performance test (or according to the less frequent testing for a pollutant as provided in paragraph (a)(3) of this section), you must complete the initial performance evaluation required under your monitoring plan in § 62.15995 for the continuous monitoring system prior to using the continuous emissions monitoring system to demonstrate compliance or continuous automated sampling system. Your performance evaluation must be conducted using the procedures and acceptance criteria specified in § 62.15995(a)(3).

(c) To demonstrate compliance with the dioxins/furans toxic equivalency emission limit in paragraph (a) or (b) of this section, you must determine dioxins/furans toxic equivalency as follows:

(1) Measure the concentration of each dioxin/furan tetra- through octachlorinated-isomer emitted using Method 23 at 40 CFR part 60, appendix A–7.

(2) For each dioxin/furan (tetra- through octachlorinated) isomer measured in accordance with paragraph (c)(1) of this section, multiply the isomer concentration by its corresponding toxic equivalency factor specified in Table 5 to this subpart.

(3) Sum the products calculated in accordance with paragraph (c)(2) of this section to obtain the total concentration of dioxins/furans emitted in terms of toxic equivalency.

(d) You must submit an annual compliance report as specified in § 62.16030(c). You must submit a deviation report as specified in § 62.16030(d) for each instance that you did not meet each emission limit in Tables 2 and 3 to this subpart.

(e) If you demonstrate continuous compliance using a performance test, as specified in paragraph (a) of this section, then the provisions of this paragraph (e) apply. If a force majeure is about to occur, occurs, or has occurred for which you intend to assert a claim of force majeure, you must notify the Administrator in writing as specified in § 62.16030(f). You must conduct the performance test as soon as practicable after the force majeure occurs. The Administrator will determine whether or not to grant the extension to the performance test deadline, and will notify you in writing of approval or disapproval of the request for an extension as soon as practicable. Until an extension of the performance test deadline has been approved by the Administrator, you remain strictly subject to the requirements of this subpart.

(f) After any initial requests in § 62.15995 for alternative monitoring requirements for initial compliance, you may subsequently petition the Administrator for alternative monitoring parameters as specified in §§ 60.13(i) and 62.15995(e).

**§ 62.16005 How do I demonstrate continuous compliance with my operating limits?**

You must continuously monitor your operating parameters as specified in paragraph (a) of this section and meet the requirements of paragraphs (b) and (c) of this section, according to the monitoring and calibration requirements in § 62.16020. You must confirm and re-establish your operating limits as specified in paragraph (d) of this section.

(a) You must continuously monitor the operating parameters specified in paragraphs (a)(1) and(2) of this section using the continuous monitoring equipment and according to the procedures specified in § 62.16020 or established in § 62.15965. To determine compliance, you must use the data averaging period specified in Table 4 to this subpart (except for alarm time of the baghouse leak detection system) unless a different averaging period is established under § 62.15965.

(1) You must demonstrate that the SSI unit meets the operating limits established according to §§ 62.15965 and 62.15985 and paragraph (d) of this section for each applicable operating parameter.

(2) You must demonstrate that the SSI unit meets the operating limit for bag leak detection systems as follows:

(i) For a bag leak detection system, you must calculate the alarm time as follows:

(A) If inspection of the fabric filter demonstrates that no corrective action is required, no alarm time is counted.

(B) If corrective action is required, each alarm time shall be counted as a minimum of 1 hour.

(C) If you take longer than 1 hour to initiate corrective action, each alarm time (*i.e.,* time that the alarm sounds) is counted as the actual amount of time taken by you to initiate corrective action.

(ii) Your maximum alarm time is equal to 5 percent of the operating time during a 6-month period, as specified in § 62.15960(c).

(b) Operation above the established maximum, below the established minimum, or outside the allowable range of the operating limits specified in paragraph (a) of this section constitutes a deviation from your operating limits established under this subpart, except during performance tests conducted to determine compliance with the emission and operating limits or to establish new operating limits. You must submit the deviation report specified in § 62.16030(d) for each instance that you did not meet one of your operating limits established under this subpart.

(c) You must submit the annual compliance report specified in § 62.16030(c) to demonstrate continuous compliance.

(d) You must confirm your operating limits according to paragraph (d)(1) of this section or re-establish operating limits according to paragraph (d)(2) of this section. Your operating limits must be established so as to assure ongoing compliance with the emission limits. These requirements also apply to your operating requirements in your fugitive emissions monitoring plan specified in § 62.15960(d).

(1) Your operating limits must be based on operating data recorded during any performance test required in § 62.16000(a) or any performance evaluation required in § 62.16000(b)(4).

(2) You may conduct a repeat performance test at any time to establish new values for the operating limits to apply from that point forward.

### § 62.16010 By what date must I conduct annual air pollution control device inspections and make any necessary repairs?

(a) You must conduct an annual inspection of each air pollution control device used to comply with the emission limits, according to § 62.16015(c), no later than 12 months following the previous annual air pollution control device inspection.

(b) Within 10 operating days following an air pollution control device inspection, all necessary repairs must be completed unless you obtain written approval from the Administrator establishing a date whereby all necessary repairs of the affected SSI unit must be completed.

## Performance Testing, Monitoring, and Calibration Requirements

### § 62.16015 What are the performance testing, monitoring, and calibration requirements for compliance with the emission limits and standards?

You must meet, as applicable, the performance testing requirements specified in paragraph (a) of this section, the monitoring requirements specified in paragraph (b) of this section, the air pollution control device inspections requirements specified in paragraph (c) of this section, and the bypass stack provisions specified in paragraph (d) of this section.

(a) *Performance testing requirements.* (1) All performance tests must consist of a minimum of three test runs conducted under conditions representative of normal operations, as specified in § 60.8(c). Emissions in excess of the emission limits or standards during periods of startup, shutdown, and malfunction are considered deviations from the applicable emission limits or standards.

(2) You must document that the dry sludge burned during the performance test is representative of the sludge burned under normal operating conditions by:

(i) Maintaining a log of the quantity of sewage sludge burned during the performance test by continuously monitoring and recording the average hourly rate that sewage sludge is fed to the incinerator.

(ii) Maintaining a log of the moisture content of the sewage sludge burned during the performance test by taking grab samples of the sewage sludge fed to the incinerator for each 8 hour period that testing is conducted.

(3) All performance tests must be conducted using the test methods, minimum sampling volume, observation period, and averaging method specified in Table 2 or 3 to this subpart.

(4) Method 1 at 40 CFR part 60, appendix A must be used to select the sampling location and number of traverse points.

(5) Method 3A or 3B at 40 CFR part 60, appendix A–2 must be used for gas composition analysis, including measurement of oxygen concentration. Method 3A or 3B at 40 CFR part 60, appendix A–2 must be used simultaneously with each method.

(6) All pollutant concentrations must be adjusted to 7 percent oxygen using Equation 1 of this section:

$$C_{adj} = C_{meas}(20.9-7)/(20.9-\%O_2) \qquad \text{(Eq. 1)}$$

Where:

$C_{adj}$ = Pollutant concentration adjusted to 7 percent oxygen.

$C_{meas}$ = Pollutant concentration measured on a dry basis.

(20.9 − 7) = 20.9 percent oxygen − 7 percent oxygen (defined oxygen correction basis).

20.9 = Oxygen concentration in air, percent.

$\%O_2$ = Oxygen concentration measured on a dry basis, percent.

(7) Performance tests must be conducted and data reduced in accordance with the test methods and procedures contained in this subpart unless the Administrator does one of the following.

(i) Specifies or approves, in specific cases, the use of a method with minor changes in methodology.

(ii) Approves the use of an equivalent method.

(iii) Approves the use of an alternative method the results of which he has determined to be adequate for indicating whether a specific source is in compliance.

(iv) Waives the requirement for performance tests because you have demonstrated by other means to the Administrator's satisfaction that the affected SSI unit is in compliance with the standard.

(v) Approves shorter sampling times and smaller sample volumes when necessitated by process variables or other factors. Nothing in this paragraph is construed to abrogate the Administrator's authority to require testing under section 114 of the Clean Air Act.

(8) You must provide the Administrator at least 30 days prior notice of any performance test, except as specified under other subparts, to afford the Administrator the opportunity to have an observer present. If after 30 days' notice for an initially scheduled performance test, there is a delay (due to operational problems, etc.) in conducting the scheduled performance test, you must notify the Administrator as soon as possible of any delay in the original test date, either by providing at

least 7 days prior notice of the rescheduled date of the performance test, or by arranging a rescheduled date with the Administrator by mutual agreement.

(9) You must provide, or cause to be provided, performance testing facilities as follows:

(i) Sampling ports adequate for the test methods applicable to the SSI unit, as follows:

(A) Constructing the air pollution control system such that volumetric flow rates and pollutant emission rates can be accurately determined by applicable test methods and procedures.

(B) Providing a stack or duct free of cyclonic flow during performance tests, as demonstrated by applicable test methods and procedures.

(ii) Safe sampling platform(s).

(iii) Safe access to sampling platform(s).

(iv) Utilities for sampling and testing equipment.

(10) Unless otherwise specified in this subpart, each performance test must consist of three separate runs using the applicable test method. Each run must be conducted for the time and under the conditions specified in the applicable standard. Compliance with each emission limit must be determined by calculating the arithmetic mean of the three runs. In the event that a sample is accidentally lost or conditions occur in which one of the three runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances, beyond your control, compliance may, upon the Administrator's approval, be determined using the arithmetic mean of the results of the two other runs.

(11) During each test run specified in paragraph (a)(1) of this section, you must operate your sewage sludge incinerator at a minimum of 85 percent of your maximum permitted capacity.

(b) *Continuous monitor requirements.* You must meet the following requirements, as applicable, when using a continuous monitoring system to demonstrate compliance with the emission limits in Table 2 or 3 to this subpart. The option to use a continuous emissions monitoring system for hydrogen chloride, dioxins/furans, cadmium, or lead takes effect on the date a final performance specification applicable to hydrogen chloride, dioxins/furans, cadmium or lead is published in the **Federal Register**. If you elect to use a continuous emissions monitoring system instead of conducting annual performance testing, you must meet the requirements of paragraphs (b)(1) through (6) of this section. If you elect to use a continuous automated sampling system instead of conducting annual performance testing, you must meet the requirements of paragraph (b)(7) of this section. The option to use a continuous automated sampling system for dioxins/furans takes effect on the date a final performance specification for such a continuous automated sampling system is published in the **Federal Register**.

(1) You must notify the Administrator 1 month before starting use of the continuous emissions monitoring system.

(2) You must notify the Administrator 1 month before stopping use of the continuous emissions monitoring system, in which case you must also conduct a performance test within prior to ceasing operation of the system.

(3) You must install, operate, calibrate, and maintain an instrument for continuously measuring and recording the emissions to the atmosphere in accordance with the following:

(i) Section 60.13 of subpart A of part 60.

(ii) The following performance specifications of appendix B of part 60, as applicable:

(A) For particulate matter, Performance Specification 11 of appendix B of part 60.

(B) For hydrogen chloride, Performance Specification 15 of appendix B of part 60.

(C) For carbon monoxide, Performance Specification 4B of appendix B of part 60 with spans appropriate to the applicable emission limit.

(D) [Reserved]

(E) For mercury, Performance Specification 12A of appendix B of part 60.

(F) For nitrogen oxides, Performance Specification 2 of appendix B of part 60.

(G) For sulfur dioxide, Performance Specification 2 of appendix B of part 60.

(iii) For continuous emissions monitoring systems, the quality assurance procedures (*e.g.,* quarterly accuracy determinations and daily calibration drift tests) of appendix F of this part specified in paragraphs (b)(3)(iii)(A) through (G) of this section. For each pollutant, the span value of the continuous emissions monitoring system is two times the applicable emission limit, expressed as a concentration.

(A) For particulate matter, Procedure 2 in appendix F of part 60.

(B) For hydrogen chloride, Procedure 1 in appendix F of part 60 except that the Relative Accuracy Test Audit requirements of Procedure 1 shall be replaced with the validation requirements and criteria of sections 11.1.1 and 12.0 of Performance Specification 15 of appendix B of part 60.

(C) For carbon monoxide, Procedure 1 in appendix F of part 60.

(D) [Reserved]

(E) For mercury, Procedures 5 in appendix F of part 60.

(F) For nitrogen oxides, Procedure 1 in appendix F of part 60.

(G) For sulfur dioxide, Procedure 1 in appendix F of part 60.

(iv) If your monitoring system has a malfunction or out-of-control period, you must complete repairs and resume operation of your monitoring system as expeditiously as possible.

(4) During each relative accuracy test run of the continuous emissions monitoring system using the performance specifications in paragraph (b)(3)(ii) of this section, emission data for each regulated pollutant and oxygen (or carbon dioxide as established in (b)(5) of this section) must be collected concurrently (or within a 30- to 60-minute period) by both the continuous emissions monitoring systems and the test methods specified in paragraph (b)(4)(i) through (viii) of this section. Relative accuracy testing must be at representative operating conditions while the SSI unit is charging sewage sludge.

(i) For particulate matter, Method 5 at 40 CFR part 60, appendix A–3 or Method 26A or 29 at 40 CFR part 60, appendix A–8 shall be used.

(ii) For hydrogen chloride, Method 26 or 26A at 40 CFR part 60, appendix A–8, shall be used, as specified in Tables 2 and 3 to this subpart.

(iii) For carbon monoxide, Method 10, 10A, or 10B at 40 CFR part 60, appendix A–4, shall be used.

(iv) For dioxins/furans, Method 23 at 40 CFR part 60, appendix A–7, shall be used.

(v) For mercury, cadmium and lead, Method 29 at 40 CFR part 60, appendix A–8, shall be used. Alternatively for mercury, either Method 30B at 40 CFR part 60, appendix A–8 or ASTM D6784–02 (Reapproved 2008) (incorporated by reference, see § 60.17), may be used.

(vi) For nitrogen oxides, Method 7 or 7E at 40 CFR part 60, appendix A–4, shall be used.

(vii) For sulfur dioxide, Method 6 or 6C at 40 CFR part 60, appendix A–4, or as an alternative ANSI/ASME PTC 19.10–1981 (incorporated by reference, see § 60.17) must be used. For sources that have actual inlet emissions less than 100 parts per million dry volume, the relative accuracy criterion for the

inlet of the sulfur dioxide continuous emissions monitoring system should be no greater than 20 percent of the mean value of the method test data in terms of the units of the emission standard, or 5 parts per million dry volume absolute value of the mean difference between the method and the continuous emissions monitoring system, whichever is greater.

(viii) For oxygen (or carbon dioxide as established in (b)(5) of this section), Method 3A or 3B at 40 CFR part 60, appendix A–2, or as an alternative ANSI/ASME PTC 19.10–1981 (incorporated by reference, see § 60.17), as applicable, must be used.

(5) You may request that compliance with the emission limits be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen. If carbon dioxide is selected for use in diluent corrections, the relationship between oxygen and carbon dioxide levels must be established during the initial performance test according to the procedures and methods specified in paragraphs (b)(5)(i) through (iv) of this section. This relationship may be re-established during subsequent performance tests.

(i) The fuel factor equation in Method 3B at 40 CFR part 60, appendix A–2 must be used to determine the relationship between oxygen and carbon dioxide at a sampling location. Method 3A or 3B at 50 CFR part 60, appendix A–2, or as an alternative ANSI/ASME PTC 19.10–1981 (incorporated by reference, see § 60.17), as applicable, must be used to determine the oxygen concentration at the same location as the carbon dioxide monitor.

(ii) Samples must be taken for at least 30 minutes in each hour.

(iii) Each sample must represent a 1-hour average.

(iv) A minimum of three runs must be performed.

(6) You must operate the continuous monitoring system and collect data with the continuous monitoring system as follows:

(i) You must collect data using the continuous monitoring system at all times the affected SSI unit is operating and at the intervals specified in paragraph (b)(6)(ii) of this section, except for periods of monitoring system malfunctions that occur during periods specified in § 62.15995(a)(7)(i), repairs associated with monitoring system malfunctions, and required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments). Any such periods that you do not collect data using the continuous monitoring system constitute a deviation from the monitoring requirements and must be reported in a deviation report.

(ii) You must collect continuous emissions monitoring system data in accordance with § 60.13(e)(2).

(iii) Any data collected during monitoring system malfunctions, repairs associated with monitoring system malfunctions, or required monitoring system quality assurance or control activities must not be included in calculations used to report emissions or operating levels. Any such periods must be reported in a deviation report.

(iv) Any data collected during periods when the monitoring system is out of control as specified in § 60.4880(a)(7)(i), repairs associated with periods when the monitoring system is out of control, or required monitoring system quality assurance or control activities conducted during out-of-control periods must not be included in calculations used to report emissions or operating levels. Any such periods that do not coincide with a monitoring system malfunction as defined in § 62.16045, constitute a deviation from the monitoring requirements and must be reported in a deviation report.

(v) You must use all the data collected during all periods except those periods specified in paragraphs (b)(6)(iii) and (iv) of this section in assessing the operation of the control device and associated control system.

(7) If you elect to use a continuous automated sampling system instead of conducting annual performance testing, you must:

(i) Install, calibrate, maintain and operate a continuous automated sampling system according to the site-specific monitoring plan developed in § 60.58b(p)(1) through (6), (9), (10), and (q).

(ii) Collect data according to § 60.58b(p)(5) and paragraph (b)(6) of this section.

(c) *Air pollution control device inspections.* You must conduct air pollution control device inspections that include, at a minimum, the following:

(1) Inspect air pollution control device(s) for proper operation.

(2) Generally observe that the equipment is maintained in good operating condition.

(3) Develop a site-specific monitoring plan according to the requirements in § 62.15995. This requirement also applies to you if you petition the EPA Administrator for alternative monitoring parameters under § 60.13(i).

(d) *Bypass stack.* Use of the bypass stack at any time that sewage sludge is being charged to the SSI unit is an emissions standards deviation for all pollutants listed in Table 2 or 3 to this subpart. The use of the bypass stack during a performance test invalidates the performance test.

**§ 62.16020 What are the monitoring and calibration requirements for compliance with my operating limits?**

(a) You must install, operate, calibrate and maintain the continuous parameter monitoring systems according to the requirements in paragraphs (a)(1) and (2) of this section.

(1) Meet the following general requirements for flow, pressure, pH and operating temperature measurement devices:

(i) You must collect data using the continuous monitoring system at all times the affected SSI unit is operating and at the intervals specified in paragraph (a)(1)(ii) of this section, except for periods of monitoring system malfunctions that occur during periods specified defined in § 62.15995(a)(7)(i), repairs associated with monitoring system malfunctions, and required monitoring system quality assurance or quality control activities (including, as applicable, calibration checks and required zero and span adjustments). Any such periods that you do not collect data using the continuous monitoring system constitute a deviation from the monitoring requirements and must be reported in a deviation report.

(ii) You must collect continuous parameter monitoring system data in accordance with § 60.13(e)(2).

(iii) Any data collected during monitoring system malfunctions, repairs associated with monitoring system malfunctions, or required monitoring system quality assurance or control activities must not be included in calculations used to report emissions or operating levels. Any such periods must be reported in your annual deviation report.

(iv) Any data collected during periods when the monitoring system is out of control as specified in § 62.15995(a)(7)(i) must not be included in calculations used to report emissions or operating levels. Any such periods that do not coincide with a monitoring system malfunction, as defined in § 62.16045, constitute a deviation from the monitoring requirements and must be reported in a deviation report.

(v) You must use all the data collected during all periods except those periods specified in paragraphs (a)(1)(iii) and (iv) of this section in assessing the operation of the control device and associated control system.

(vi) Record the results of each inspection, calibration and validation check.

(2) Operate and maintain your continuous monitoring system according to your monitoring plan required under § 60.4880. Additionally:

(i) For carrier gas flow rate monitors (for activated carbon injection), during the performance test conducted pursuant to § 60.4885, you must demonstrate that the system is maintained within ±5 percent accuracy, according to the procedures in appendix A to part 75 of this chapter.

(ii) For carrier gas pressure drop monitors (for activated carbon injection), during the performance test conducted pursuant to § 60.4885, you must demonstrate that the system is maintained within ±5 percent accuracy.

(b) You must operate and maintain your bag leak detection system in continuous operation according to your monitoring plan required under § 60.4880. Additionally:

(1) For positive pressure fabric filter systems that do not duct all compartments of cells to a common stack, a bag leak detection system must be installed in each baghouse compartment or cell.

(2) Where multiple bag leak detectors are required, the system's instrumentation and alarm may be shared among detectors.

(3) You must initiate procedures to determine the cause of every alarm within 8 hours of the alarm, and you must alleviate the cause of the alarm within 24 hours of the alarm by taking whatever corrective action(s) are necessary. Corrective actions may include, but are not limited to the following:

(i) Inspecting the fabric filter for air leaks, torn or broken bags or filter media or any other condition that may cause an increase in particulate matter emissions.

(ii) Sealing off defective bags or filter media.

(iii) Replacing defective bags or filter media or otherwise repairing the control device.

(iv) Sealing off a defective fabric filter compartment.

(v) Cleaning the bag leak detection system probe or otherwise repairing the bag leak detection system.

(vi) Shutting down the process producing the particulate matter emissions.

(c) You must operate and maintain the continuous parameter monitoring systems specified in paragraphs (a) and (b) of this section in continuous operation according to your monitoring plan required under § 60.4880.

(d) If your SSI unit has a bypass stack, you must install, calibrate (to manufacturers' specifications), maintain and operate a device or method for measuring the use of the bypass stack including date, time and duration.

## Recordkeeping and Reporting

### § 62.16025 What records must I keep?

You must maintain the items (as applicable) specified in paragraphs (a) through (n) of this section for a period of at least 5 years. All records must be available on site in either paper copy or computer-readable format that can be printed upon request, unless an alternative format is approved by the Administrator.

(a) *Date.* Calendar date of each record.

(b) *Increments of progress.* Copies of the final control plan and any additional notifications, reported under § 62.16030.

(c) *Operator Training.* Documentation of the operator training procedures and records specified in paragraphs (c)(1) through (4) of this section. You must make available and readily accessible at the facility at all times for all SSI unit operators the documentation specified in paragraph (c)(1) of this section.

(1) Documentation of the following operator training procedures and information:

(i) Summary of the applicable standards under this subpart.

(ii) Procedures for receiving, handling and feeding sewage sludge.

(iii) Incinerator startup, shutdown, and malfunction preventative and corrective procedures.

(iv) Procedures for maintaining proper combustion air supply levels.

(v) Procedures for operating the incinerator and associated air pollution control systems within the standards established under this subpart.

(vi) Monitoring procedures for demonstrating compliance with the incinerator operating limits.

(vii) Reporting and recordkeeping procedures.

(viii) Procedures for handling ash.

(ix) A list of the materials burned during the performance test, if in addition to sewage sludge.

(x) For each qualified operator and other plant personnel who may operate the unit according to the provisions of § 62.15945(a), the phone and/or pager number at which they can be reached during operating hours.

(2) Records showing the names of SSI unit operators and other plant personnel who may operate the unit according to the provisions of § 62.15945(a), as follows:

(i) Records showing the names of SSI unit operators and other plant personnel who have completed review of the information in paragraph (c)(1) of this section as required by § 62.15950(b), including the date of the initial review and all subsequent annual reviews.

(ii) Records showing the names of the SSI operators who have completed the operator training requirements under § 62.15920, met the criteria for qualification under § 62.15930, and maintained or renewed their qualification under § 62.15935 or § 62.15940. Records must include documentation of training, including the dates of their initial qualification and all subsequent renewals of such qualifications.

(3) Records showing the periods when no qualified operators were accessible for more than 8 hours, but less than 2 weeks, as required in § 62.15945(a).

(4) Records showing the periods when no qualified operators were accessible for 2 weeks or more along with copies of reports submitted as required in § 62.15945(b).

(d) Air pollution control device inspections. Records of the results of initial and annual air pollution control device inspections conducted as specified in §§ 62.15990 and 62.16015(c), including any required maintenance and any repairs not completed within 10 days of an inspection or the timeframe established by the Administrator.

(e) *Performance test reports.* (1) The results of the initial, annual and any subsequent performance tests conducted to determine compliance with the emission limits and standards and/or to establish operating limits, as applicable.

(2) Retain a copy of the complete performance test report, including calculations.

(3) Keep a record of the hourly dry sludge feed rate measured during performance test runs as specified in § 62.16015(a)(2)(i).

(4) Keep any necessary records to demonstrate that the performance test was conducted under conditions representative of normal operations, including a record of the moisture content measured as required in § 62.16015(a)(2)(ii) for each grab sample taken of the sewage sludge burned during the performance test.

(f) *Continuous monitoring data.* Records of the following data, as applicable:

(1) For continuous emissions monitoring systems, all 1-hour average concentrations of particulate matter, hydrogen chloride, carbon monoxide, dioxins/furans total mass basis, mercury, nitrogen oxides, sulfur dioxide, cadmium and lead emissions.

(2) For continuous automated sampling systems, all average concentrations measured for mercury and dioxins/furans total mass basis at the frequencies specified in your monitoring plan.

(3) For continuous parameter monitoring systems:

(i) All 1-hour average values recorded for the following operating parameters, as applicable:

(A) Combustion chamber operating temperature (or afterburner temperature).

(B) If a wet scrubber is used to comply with the rule, pressure drop across each wet scrubber system and liquid flow rate to each wet scrubber used to comply with the emission limit in Table 2 or 3 to this subpart for particulate matter, cadmium or lead and scrubber liquid flow rate and scrubber liquid pH for each wet scrubber used to comply with an emission limit in Table 2 or 3 to this subpart for sulfur dioxide or hydrogen chloride.

(C) If an electrostatic precipitator is used to comply with the rule, secondary voltage of the electrostatic precipitator collection plates and secondary amperage of the electrostatic precipitator collection plates and effluent water flow rate at the outlet of the wet electrostatic precipitator.

(D) If activated carbon injection is used to comply with the rule, sorbent flow rate and carrier gas flow rate or pressure drop, as applicable.

(ii) All daily average values recorded for the feed rate and moisture content of the sewage sludge fed to the sewage sludge incinerator, monitored and calculated as specified in § 62.15960(f).

(iii) If a fabric filter is used to comply with the rule, the date, time and duration of each alarm and the time corrective action was initiated and completed, and a brief description of the cause of the alarm and the corrective action taken. You must also record the percent of operating time during each 6-month period that the alarm sounds, calculated as specified in § 62.16005.

(iv) For other control devices for which you must establish operating limits under § 62.15965, you must maintain data collected for all operating parameters used to determine compliance with the operating limits, at the frequencies specified in your monitoring plan.

(g) *Other records for continuous monitoring systems.* You must keep the following records, as applicable:

(1) Keep records of any notifications to the Administrator in § 60.4915(h)(1) of starting or stopping use of a continuous monitoring system for determining compliance with any emissions limit.

(2) Keep records of any requests under § 62.16015(b)(5) that compliance with the emission limits be determined using carbon dioxide measurements corrected to an equivalent of 7 percent oxygen.

(3) If activated carbon injection is used to comply with the rule, the type of sorbent used and any changes in the type of sorbent used.

(h) *Deviation Reports.* Records of any deviation reports submitted under § 62.16030(e) and (f).

(i) *Equipment specifications and operation and maintenance requirements.* Equipment specifications and related operation and maintenance requirements received from vendors for the incinerator, emission controls and monitoring equipment.

(j) *Inspections, calibrations and validation checks of monitoring devices.* Records of inspections, calibration and validation checks of any monitoring devices as required under §§ 62.16015 and 62.16020.

(k) *Monitoring plan and performance evaluations for continuous monitoring systems.* Records of the monitoring plans required under § 62.15995, and records of performance evaluations required under § 62.16000(b)(5).

(l) *Less frequent testing.* If, consistent with § 62.16000(a)(3), you elect to conduct performance tests less frequently than annually, you must keep annual records that document that your emissions in the two previous consecutive years were at or below 75 percent of the applicable emission limit in Table 1 or 2 to this subpart, and document that there were no changes in source operations or air pollution control equipment that would cause emissions of the relevant pollutant to increase within the past 2 years.

(m) *Use of bypass stack.* Records indicating use of the bypass stack, including dates, times and durations as required under § 62.16020(d).

(n) If a malfunction occurs, you must keep a record of the information submitted in your annual report in § 62.16030(c)(16).

**§ 62.16030 What reports must I submit?**

You must submit the reports to the Administrator specified in paragraphs (a) through (i) of this section. See Table 6 to this subpart for a summary of these reports.

(a) *Increments of progress report.* If you plan to achieve compliance more than 1 year following the effective date of state plan approval, you must submit the following reports, as applicable:

(1) A final control plan as specified in §§ 62.15875(b)(1) and 62.15900.

(2) You must submit your notification of achievement of increments of progress no later than 10 business days after the compliance date for the increment as specified in §§ 62.15885 and 62.15890.

(3) If you fail to meet an increment of progress, you must submit a notification to the Administrator postmarked within 10 business days after the date for that increment, as specified in § 62.15895.

(4) If you plan to close your SSI unit rather than comply with the Federal Plan, submit a closure notification as specified in § 62.15915.

(b) *Initial compliance report.* You must submit the following information no later than 60 days following the initial performance test.

(1) Company name, physical address and mailing address.

(2) Statement by a responsible official, with that official's name, title and signature, certifying the accuracy of the content of the report.

(3) Date of report.

(4) The complete test report for the initial performance test results obtained by using the test methods specified in Table 2 or 3 to this subpart.

(5) If an initial performance evaluation of a continuous monitoring system was conducted, the results of that initial performance evaluation.

(6) The values for the site-specific operating limits established pursuant to §§ 62.15960 and 62.15965 and the calculations and methods, as applicable, used to establish each operating limit.

(7) If you are using a fabric filter to comply with the emission limits, documentation that a bag leak detection system has been installed and is being operated, calibrated, and maintained as required by § 62.15960(b).

(8) The results of the initial air pollution control device inspection required in § 62.15990, including a description of repairs.

(9) The site-specific monitoring plan required under § 62.15995, at least 60 days before your initial performance evaluation of your continuous monitoring system.

(10) The site-specific monitoring plan for your ash handling system required under § 62.15995, at least 60 days before your initial performance test to demonstrate compliance with your fugitive ash emission limit.

(c) *Annual compliance report.* You must submit an annual compliance report that includes the items listed in paragraphs (c)(1) through (16) of this section for the reporting period specified in paragraph (c)(3) of this section. You must submit your first annual compliance report no later than 12 months following the submission of

the initial compliance report in paragraph (b) of this section. You must submit subsequent annual compliance reports no more than 12 months following the previous annual compliance report. (You may be required to submit similar or additional compliance information more frequently by the title V operating permit required in § 62.16035.)

(1) Company name, physical address and mailing address.

(2) Statement by a responsible official, with that official's name, title and signature, certifying the accuracy of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period.

(4) If a performance test was conducted during the reporting period, the results of that performance test.

(i) If operating limits were established during the performance test, include the value for each operating limit and, as applicable, the method used to establish each operating limit, including calculations.

(ii) If activated carbon is used during the performance test, include the type of activated carbon used.

(5) For each pollutant and operating parameter recorded using a continuous monitoring system, the highest average value and lowest average value recorded during the reporting period, as follows:

(i) For continuous emission monitoring systems and continuous automated sampling systems, report the highest and lowest 24-hour average emission value.

(ii) For continuous parameter monitoring systems, report the following values:

(A) For all operating parameters except scrubber liquid pH, the highest and lowest 12-hour average values.

(B) For scrubber liquid pH, the highest and lowest 3-hour average values.

(6) If there are no deviations during the reporting period from any emission limit, emission standard or operating limit that applies to you, a statement that there were no deviations from the emission limits, emission standard or operating limits.

(7) Information for bag leak detection systems recorded under § 62.16025(f)(3)(iii).

(8) If a performance evaluation of a continuous monitoring system was conducted, the results of that performance evaluation. If new operating limits were established during the performance evaluation, include your calculations for establishing those operating limits.

(9) If you elect to conduct performance tests less frequently as allowed in § 62.16000(a)(3) and did not conduct a performance test during the reporting period, you must include the dates of the last two performance tests, a comparison of the emission level you achieved in the last two performance tests to the 75 percent emission limit threshold specified in § 62.16000(a)(3), and a statement as to whether there have been any process changes and whether the process change resulted in an increase in emissions.

(10) Documentation of periods when all qualified sewage sludge incineration unit operators were unavailable for more than 8 hours, but less than 2 weeks.

(11) Results of annual air pollution control device inspections recorded under § 62.16025(d) for the reporting period, including a description of repairs.

(12) If there were no periods during the reporting period when your continuous monitoring systems had a malfunction, a statement that there were no periods during which your continuous monitoring systems had a malfunction.

(13) If there were no periods during the reporting period when a continuous monitoring system was out of control, a statement that there were no periods during which your continuous monitoring systems were out of control.

(14) If there were no operator training deviations, a statement that there were no such deviations during the reporting period.

(15) If you did not make revisions to your site-specific monitoring plan during the reporting period, a statement that you did not make any revisions to your site-specific monitoring plan during the reporting period. If you made revisions to your site-specific monitoring plan during the reporting period, a copy of the revised plan.

(16) If you had a malfunction during the reporting period, the compliance report must include the number, duration, and a brief description for each type of malfunction that occurred during the reporting period and that caused or may have caused any applicable emission limitation to be exceeded. The report must also include a description of actions taken by an owner or operator during a malfunction of an affected source to minimize emissions in accordance with § 60.11(d), including actions taken to correct a malfunction.

(d) *Deviation reports.* (1) You must submit a deviation report if:

(i) Any recorded operating parameter level, based on the averaging time specified in Table 4 to this subpart, is above the maximum operating limit or below the minimum operating limit established under this subpart.

(ii) The bag leak detection system alarm sounds for more than 5 percent of the operating time for the 6-month reporting period.

(iii) Any recorded 24-hour block average emissions level is above the emission limit, if a continuous monitoring system is used to comply with an emission limit.

(iv) There are visible emissions of combustion ash from an ash conveying system for more than 5 percent of any compliance test hourly observation period.

(v) A performance test was conducted that deviated from any emission limit in Table 2 or 3 to this subpart.

(vi) A continuous monitoring system was out of control.

(vii) You had a malfunction (*e.g.,* continuous monitoring system malfunction) that caused or may have caused any applicable emission limit to be exceeded.

(2) The deviation report must be submitted by August 1 of that year for data collected during the first half of the calendar year (January 1 to June 30), and by February 1 of the following year for data you collected during the second half of the calendar year (July 1 to December 31).

(3) For each deviation where you are using a continuous monitoring system to comply with an associated emission limit or operating limit, report the items described in paragraphs (d)(3)(i) through (viii) of this section.

(i) Company name, physical address and mailing address.

(ii) Statement by a responsible official, with that official's name, title and signature, certifying the accuracy of the content of the report.

(iii) The calendar dates and times your unit deviated from the emission limits, emission standards or operating limits requirements.

(iv) The averaged and recorded data for those dates.

(v) Duration and cause of each deviation from the following:

(A) Emission limits, emission standards, operating limits and your corrective actions.

(B) Bypass events and your corrective actions.

(vi) Dates, times and causes for monitor downtime incidents.

(vii) A copy of the operating parameter monitoring data during each deviation and any test report that documents the emission levels.

(viii) If there were periods during which the continuous monitoring system malfunctioned or was out of control, you must include the following

information for each deviation from an emission limit or operating limit:

(A) The date and time that each malfunction started and stopped.

(B) The date, time and duration that each continuous monitoring system was inoperative, except for zero (low-level) and high-level checks.

(C) The date, time and duration that each continuous monitoring system was out of control, including start and end dates and hours and descriptions of corrective actions taken.

(D) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of malfunction, during a period when the system as out of control or during another period.

(E) A summary of the total duration of the deviation during the reporting period, and the total duration as a percent of the total source operating time during that reporting period.

(F) A breakdown of the total duration of the deviations during the reporting period into those that are due to control equipment problems, process problems, other known causes and other unknown causes.

(G) A summary of the total duration of continuous monitoring system downtime during the reporting period, and the total duration of continuous monitoring system downtime as a percent of the total operating time of the SSI unit at which the continuous monitoring system downtime occurred during that reporting period.

(H) An identification of each parameter and pollutant that was monitored at the SSI unit.

(I) A brief description of the SSI unit.

(J) A brief description of the continuous monitoring system.

(K) The date of the latest continuous monitoring system certification or audit.

(L) A description of any changes in continuous monitoring system, processes, or controls since the last reporting period.

(4) For each deviation where you are not using a continuous monitoring system to comply with the associated emission limit or operating limit, report the following items:

(i) Company name, physical address and mailing address.

(ii) Statement by a responsible official, with that official's name, title and signature, certifying the accuracy of the content of the report.

(iii) The total operating time of each affected source during the reporting period.

(iv) The calendar dates and times your unit deviated from the emission limits, emission standards or operating limits requirements.

(v) The averaged and recorded data for those dates.

(vi) Duration and cause of each deviation from the following:

(A) Emission limits, emission standards, operating limits and your corrective actions.

(B) Bypass events and your corrective actions.

(vii) A copy of any performance test report that showed a deviation from the emission limits or standards.

(viii) A brief description of any malfunction reported in paragraph (d)(1)(vii) of this section, including a description of actions taken during the malfunction to minimize emissions in accordance with § 60.11(d) and to correct the malfunction.

(e) *Qualified operator deviation.* (1) If all qualified operators are not accessible for 2 weeks or more, you must take the two actions in paragraphs (e)(1)(i) and (ii) of this section.

(i) Submit a notification of the deviation within 10 days that includes the three items in paragraphs (e)(1)(i)(A) through(C) of this section.

(A) A statement of what caused the deviation.

(B) A description of actions taken to ensure that a qualified operator is accessible.

(C) The date when you anticipate that a qualified operator will be available.

(ii) Submit a status report to the Administrator every 4 weeks that includes the three items in paragraphs (e)(1)(ii)(A) through (C) of this section.

(A) A description of actions taken to ensure that a qualified operator is accessible.

(B) The date when you anticipate that a qualified operator will be accessible.

(C) Request for approval from the Administrator to continue operation of the SSI unit.

(2) If your unit was shut down by the Administrator, under the provisions of § 62.15945(b)(2)(i), due to a failure to provide an accessible qualified operator, you must notify the Administrator within five days of meeting § 62.15945(b)(2)(ii) that you are resuming operation.

(f) *Notification of a force majeure.* If a force majeure is about to occur, occurs, or has occurred for which you intend to assert a claim of force majeure:

(1) You must notify the Administrator, in writing as soon as practicable following the date you first knew, or through due diligence, should have known that the event may cause or caused a delay in conducting a performance test beyond the regulatory deadline, but the notification must occur before the performance test deadline unless the initial force majeure or a subsequent force majeure event delays the notice, and in such cases, the notification must occur as soon as practicable.

(2) You must provide to the Administrator a written description of the force majeure event and a rationale for attributing the delay in conducting the performance test beyond the regulatory deadline to the force majeure; describe the measures taken or to be taken to minimize the delay; and identify a date by which you propose to conduct the performance test.

(g) *Other notifications and reports required.* You must submit other notifications as provided by § 60.7 and as follows:

(1) You must notify the Administrator 1 month before starting or stopping use of a continuous monitoring system for determining compliance with any emission limit.

(2) You must notify the Administrator at least 30 days prior to any performance test conducted to comply with the provisions of this subpart, to afford the Administrator the opportunity to have an observer present.

(3) As specified in § 62.16015(a)(8), you must notify the Administrator at least 7 days prior to the date of a rescheduled performance test for which notification was previously made in paragraph (g)(2) of this section.

(h) *Report submission form.* (1) Submit initial, annual and deviation reports electronically or in paper format, postmarked on or before the submittal due dates.

(2) Submit performance tests and evaluations according to paragraphs (i) and (ii) below.

(i) Within 60 days after the date of completing each performance test (see § 60.8) required by this subpart, you must submit the results of the performance test according to the method specified by either paragraph (A) or (B) of this section.

(A) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (*http://www.epa.gov/ttn/chief/ert/index.html*), you must submit the results of the performance test to the Compliance and Emissions Data Reporting Interface (CEDRI) that is accessed through the EPA's Central Data Exchange (CDX) (*http://cdx.epa.gov/epa_home.asp*), unless the Administrator approves another approach. Performance test data must be submitted in a file format generated through the use of the EPA's ERT. If you claim that some of the performance test information being transmitted is confidential business information (CBI),

you must submit a complete file generated through the use of the EPA's ERT, including information claimed to be CBI, on a compact disk, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT file with the CBI omitted must be submitted to the EPA via CDX as described earlier in this paragraph.

(B) For any performance tests conducted using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site, you must submit the results of the performance test to the Administrator at the appropriate address listed in § 60.4.

(ii) Within 60 days after the date of completing each CEMS performance evaluation (as defined in § 63.2), you must submit the results of the performance evaluation according to the method specified by either paragraph (A) or (B) of this section.

(A) For data collection of relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT Web site, you must submit the results of the performance evaluation to the CEDRI that is accessed through the EPA's CDX, unless the Administrator approves another approach. Performance evaluation data must be submitted in a file format generated through the use of the EPA's ERT. If you claim that some of the performance evaluation information being transmitted is CBI, you must submit a complete file generated through the use of the EPA's ERT, including information claimed to be CBI, on a compact disk or other commonly used electronic storage media (including, but not limited to, flash drives) by registered letter to the EPA. The compact disk shall be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT file with the CBI omitted must be submitted to the EPA via CDX as described earlier in this paragraph.

(B) For any performance evaluations with RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT Web site, you shall submit the results of the performance evaluation to the Administrator at the appropriate address listed in § 60.4.

(3) *Changing report dates.* If the Administrator agrees, you may change the semiannual or annual reporting dates. See § 60.19(c) for procedures to seek approval to change your reporting date.

## Title V Operating Permits

### § 62.16035 Am I required to apply for and obtain a Title V operating permit for my existing SSI unit?

Yes, if you are subject to an applicable EPA-approved and effective CAA section 111(d)/129 state or tribal plan or an applicable and effective Federal Plan, you are required to apply for and obtain a Title V operating permit for your existing SSI unit unless you meet the relevant requirements for an exemption specified in § 62.15860.

### § 62.16040 When must I submit a Title V permit application for my existing SSI unit?

(a) If your existing SSI unit is not subject to an earlier permit application deadline, a complete title V permit application must be submitted on or before the earlier of the dates specified in paragraphs (a)(1) through (3) of this section. (See sections 129(e), 503(c), 503(d), and 502(a) of the Clean Air Act and 40 CFR 70.5(a)(1)(i) and 40 CFR 71.5(a)(1)(i)).

(1) 12 months after the effective date of any applicable EPA-approved Clean Air Act section 111(d)/129 state or tribal plan.

(2) 12 months after the effective date of any applicable Federal Plan.

(3) March 21, 2014.

(b) For any existing unit not subject to an earlier permit application deadline, the application deadline of 36 months after the promulgation of 40 CFR part 60, subpart MMMM applies regardless of whether or when any applicable Federal Plan is effective, or whether or when any applicable Clean Air Act section 111(d)/129 state or tribal plan is approved by the EPA and becomes effective.

(c) If your existing unit is subject to title V as a result of some triggering requirement(s) other than those specified in paragraphs (a) and (b) of this section (for example, a unit may be a major source or part of a major source), then your unit may be required to apply for a title V permit prior to the deadlines specified in paragraphs (a) and (b). If more than one requirement triggers a source's obligation to apply for a title V permit, the 12-month time frame for filing a title V permit application is triggered by the requirement which first causes the source to be subject to title V. (See section 503(c) of the Clean Air Act and 40 CFR 70.3(a) and (b), 40 CFR 70.5(a)(1)(i), 40 CFR 71.3(a) and (b), and 40 CFR 71.5(a)(1)(i).)

(d) A ''complete'' title V permit application is one that has been determined or deemed complete by the relevant permitting authority under section 503(d) of the Clean Air Act and 40 CFR 70.5(a)(2) or 40 CFR 71.5(a)(2). You must submit a complete permit application by the relevant application deadline in order to operate after this date in compliance with federal law. (See sections 503(d) and 502(a) of the Clean Air Act and 40 CFR 70.7(b) and 40 CFR 71.7(b).)

## Definitions

### § 62.16045 What definitions must I know?

Terms used but not defined in this subpart are defined in the Clean Air Act and § 60.2.

*Administrator* means:

(1) For units covered by the Federal Plan, the Administrator of the EPA or his/her authorized representative (*e.g.* delegated authority).

(2) For units covered by an approved state plan, the director of the state air pollution control agency or his/her authorized representative.

*Affected source* means a sewage sludge incineration unit as defined in § 62.16045.

*Affirmative defense* means, in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding.

*Auxiliary fuel* means natural gas, liquefied petroleum gas, fuel oil or diesel fuel.

*Bag leak detection system* means an instrument that is capable of monitoring particulate matter loadings in the exhaust of a fabric filter (*i.e.,* baghouse) in order to detect bag failures. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light scattering, light transmittance or other principle to monitor relative particulate matter loadings.

*Bypass stack* means a device used for discharging combustion gases to avoid severe damage to the air pollution control device or other equipment.

*Calendar year* means 365 consecutive days starting on January 1 and ending on December 31.

*Continuous automated sampling system* means the total equipment and procedures for automated sample collection and sample recovery/analysis to determine a pollutant concentration or emission rate by collecting a single integrated sample(s) or multiple integrated sample(s) of the pollutant (or

diluent gas) for subsequent on- or off-site analysis; integrated sample(s) collected are representative of the emissions for the sample time as specified by the applicable requirement.

*Continuous emissions monitoring system* means a monitoring system for continuously measuring and recording the emissions of a pollutant from an affected facility.

*Continuous monitoring system (CMS)* means a continuous emissions monitoring system, continuous automated sampling system, continuous parameter monitoring system or other manual or automatic monitoring that is used for demonstrating compliance with an applicable regulation on a continuous basis as defined by this subpart. The term refers to the total equipment used to sample and condition (if applicable), to analyze and to provide a permanent record of emissions or process parameters.

*Continuous parameter monitoring system* means a monitoring system for continuously measuring and recording operating conditions associated with air pollution control device systems (*e.g.,* operating temperature, pressure and power).

*Deviation* means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emission limit, operating limit, or operator qualification and accessibility requirements.

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit.

*Dioxins/furans* means tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.

*Electrostatic precipitator or wet electrostatic precipitator* means an air pollution control device that uses both electrical forces and, if applicable, water to remove pollutants in the exit gas from a sewage sludge incinerator stack.

*Existing sewage sludge incineration unit* means a sewage sludge incineration unit the construction of which is commenced on or before October 14, 2010.

*Fabric filter* means an add-on air pollution control device used to capture particulate matter by filtering gas streams through filter media, also known as a baghouse.

*Fluidized bed incinerator* means an enclosed device in which organic matter and inorganic matter in sewage sludge are combusted in a bed of particles suspended in the combustion chamber gas.

*Malfunction* means any sudden, infrequent, and not reasonably preventable failure of air pollution control and monitoring equipment, process equipment or a process to operate in a normal or usual manner. Failures that are caused, in part, by poor maintenance or careless operation are not malfunctions.

*Modification* means a change to an existing SSI unit later than September 21, 2011 and that meets one of two criteria:

(1) The cumulative cost of the changes over the life of the unit exceeds 50 percent of the original cost of building and installing the SSI unit (not including the cost of land) updated to current costs (current dollars). To determine what systems are within the boundary of the SSI unit used to calculate these costs, see the definition of SSI unit.

(2) Any physical change in the SSI unit or change in the method of operating it that increases the amount of any air pollutant emitted for which section 129 or section 111 of the Clean Air Act has established standards.

*Modified sewage sludge incineration unit* means an existing SSI unit that undergoes a modification, as defined in this section.

*Multiple hearth incinerator* means a circular steel furnace that contains a number of solid refractory hearths and a central rotating shaft; rabble arms that are designed to slowly rake the sludge on the hearth are attached to the rotating shaft. Dewatered sludge enters at the top and proceeds downward through the furnace from hearth to hearth, pushed along by the rabble arms.

*Operating day* means a 24-hour period between 12:00 midnight and the following midnight during which any amount of sewage sludge is combusted at any time in the SSI unit.

*Particulate matter* means filterable particulate matter emitted from SSI units as measured by Method 5 at 40 CFR part 60, appendix A–3 or Methods 26A or 29 at 40 CFR part 60, appendix A–8.

*Power input to the electrostatic precipitator* means the product of the test-run average secondary voltage and the test-run average secondary amperage to the electrostatic precipitator collection plates.

*Process change* means a significant permit revision, but only with respect to those pollutant-specific emission units for which the proposed permit revision is applicable, including but not limited to:

(1) A change in the process employed at the wastewater treatment facility associated with the affected SSI unit (*e.g.,* the addition of tertiary treatment at the facility, which changes the method used for disposing of process solids and processing of the sludge prior to incineration).

(2) A change in the air pollution control devices used to comply with the emission limits for the affected SSI unit (*e.g.,* change in the sorbent used for activated carbon injection).

*Sewage sludge* means solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary or advanced wastewater treatment processes; and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incineration unit or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.

*Sewage sludge feed rate* means the rate at which sewage sludge is fed into the incinerator unit.

*Sewage sludge incineration (SSI) unit* means an incineration unit combusting sewage sludge for the purpose of reducing the volume of the sewage sludge by removing combustible matter. Sewage sludge incineration unit designs include fluidized bed and multiple hearth. AN SSI unit also includes, but is not limited to, the sewage sludge feed system, auxiliary fuel feed system, grate system, flue gas system, waste heat recovery equipment, if any, and bottom ash system. The SSI unit includes all ash handling systems connected to the bottom ash handling system. The combustion unit bottom ash system ends at the truck loading station or similar equipment that transfers the ash to final disposal. The SSI unit does not include air pollution control equipment or the stack.

*Shutdown* means the period of time after all sewage sludge has been combusted in the primary chamber.

*Solid waste* means any garbage, refuse, sewage sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining, agricultural operations and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point

sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1342), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014).

*Standard conditions,* when referring to units of measure, means a temperature of 68 °F (20 °C) and a pressure of 1 atmosphere (101.3 kilopascals).

*Startup* means the period of time between the activation, including the firing of fuels (*e.g.,* natural gas or distillate oil), of the system and the first feed to the unit.

*Toxic equivalency* means the product of the concentration of an individual dioxin isomer in an environmental mixture and the corresponding estimate of the compound-specific toxicity relative to tetrachlorinated dibenzo-p-dioxin, referred to as the toxic equivalency factor for that compound. Table 5 to this subpart lists the toxic equivalency factors.

*Wet scrubber* means an add-on air pollution control device that utilizes an aqueous or alkaline scrubbing liquid to collect particulate matter (including nonvaporous metals and condensed organics) and/or to absorb and neutralize acid gases.

*You* means the owner or operator of an affected SSI unit.

## Delegation of Authority

### § 62.16050 What authorities will be retained by the EPA Administrator?

The authorities that will not be delegated to state, local, or tribal agencies are specified in paragraphs (a) through (g) of this section.

(a) Approval of alternatives to the emission limits and standards in Tables 2 and 3 to this subpart and operating limits established under § 62.15965 or § 62.15985.

(b) Approval of major alternatives to test methods.

(c) Approval of major alternatives to monitoring.

(d) Approval of major alternatives to recordkeeping and reporting.

(e) The requirements in § 62.15965.

(f) The requirements in § 62.15945(b)(2).

(g) Performance test and data reduction waivers under § 60.8(b).

TABLE 1 TO SUBPART LLL OF PART 62—INCREMENTS OF PROGRESS AND COMPLIANCE SCHEDULES FOR EXISTING SEWAGE SLUDGE INCINERATION UNITS

| Comply with these increments of progress | By these dates |
|---|---|
| Increment 1—Submit final control plan. | [DATE 3 MONTHS FROM DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**]. |
| Increment 2—Final compliance ..... | March 21, 2016. |

TABLE 2 TO SUBPART LLL OF PART 62—EMISSION LIMITS AND STANDARDS FOR EXISTING FLUIDIZED BED SEWAGE SLUDGE INCINERATION UNITS

| For the air pollutant | You must meet this emission limit [a] | Using these averaging methods and minimum sampling volumes or durations | And determining compliance using this method |
|---|---|---|---|
| Particulate matter .... | 18 milligrams per dry standard cubic meter. | 3-run average (collect a minimum volume of 1 dry standard cubic meters sample per run). | Performance test (Method 5 at 40 CFR part 60, appendix A–3; Method 26A or Method 29 at 40 CFR part 60, appendix A–8). |
| Hydrogen chloride ... | 0.51 parts per million by dry volume .... | 3-run average (Collect a minimum volume of 1 dry standard cubic meters per run). | Performance test (Method 26A at 40 CFR part 60, appendix A–8). |
| Carbon monoxide .... | 64 parts per million by dry volume ..... | 3-run average (collect sample for a minimum duration of one hour per run). | Performance test (Method 10, 10A, or 10B at 40 CFR part 60, appendix A–4). |
| Dioxins/furans (total mass basis); or Dioxins/furans (toxic equivalency basis).[b] | 1.2 nanograms per dry standard cubic meter (total mass basis); or 0.10 nanograms per dry standard cubic meter (toxic equivalency basis). | 3-run average (collect a minimum volume of 1 dry standard cubic meters per run). | Performance test (Method 23 at 40 CFR part 60, appendix A–7). |
| Mercury ..... | 0.037 milligrams per dry standard cubic meter. | 3-run average (For Method 29 and ASTM D6784–02 (Reapproved 2008),[c] collect a minimum volume of 1 dry standard cubic meters per run. For Method 30B, collect a minimum sample as specified in Method 30B at 40 CFR part 60, appendix A–8). | Performance test (Method 29 at 40 CFR part 60, appendix A–8; Method 30B at 40 CFR part 60, appendix A–8; or ASTM D6784–02 (Reapproved 2008).[c] |
| Oxides of nitrogen ... | 150 parts per million by dry volume ..... | 3-run average (Collect sample for a minimum duration of one hour per run). | Performance test (Method 7 or 7E at 40 CFR part 60, appendix A–4). |
| Sulfur dioxide ..... | 15 parts per million by dry volume ..... | 3-run average (For Method 6, collect a minimum volume of 60 liters per run. For Method 6C, collect sample for a minimum duration of one hour per run). | Performance test (Method 6 or 6C at 40 CFR part 40, appendix A–4; or ANSI/ASME PTC–19.10–1981.[c] |

TABLE 2 TO SUBPART LLL OF PART 62—EMISSION LIMITS AND STANDARDS FOR EXISTING FLUIDIZED BED SEWAGE SLUDGE INCINERATION UNITS—Continued

| For the air pollutant | You must meet this emission limit [a] | Using these averaging methods and minimum sampling volumes or durations | And determining compliance using this method |
|---|---|---|---|
| Cadmium | 0.0016 milligrams per dry standard cubic meter. | 3-run average (collect a minimum volume of 1 dry standard cubic meters per run). | Performance test (Method 29 at 40 CFR part 60, appendix A–8). Use GFAAS or ICP/MS for the analytical finish. |
| Lead | 0.0074 milligrams per dry standard cubic meter. | 3-run average (collect a minimum volume of 1 dry standard cubic meters sample per run). | Performance test (Method 29 at 40 CFR part 60, appendix A–8. Use GFAAS or ICP/MS for the analytical finish. |
| Fugitive emissions from ash handling. | Visible emissions of combustion ash from an ash conveying system (including conveyor transfer points) for no more than 5 percent of any compliance test hourly observation period. | Three 1-hour observation periods | Visible emission test (Method 22 of appendix A–7 of this part). |

[a] All emission limits are measured at 7 percent oxygen, dry basis at standard conditions.
[b] You have the option to comply with either the dioxin/furan emission limit on a total mass basis or the dioxin/furan emission limit on a toxic equivalency basis.
[c] Incorporated by reference, see § 60.17.

TABLE 3 TO SUBPART LLL OF PART 62—EMISSION LIMITS AND STANDARDS FOR EXISTING MULTIPLE HEARTH SEWAGE SLUDGE INCINERATION UNITS

| For the air pollutant | You must meet this emission limit [a] | Using these averaging methods and minimum sampling volumes or durations | And determining compliance using this method |
|---|---|---|---|
| Particulate matter | 80 milligrams per dry standard cubic meter. | 3-run average (collect a minimum volume of 0.75 dry standard cubic meters per run). | Performance test (Method 5 at 40 CFR part 60, appendix A–3; Method 26A or Method 29 at 40 CFR part 60, appendix A–8). |
| Hydrogen chloride | 1.2 parts per million by dry volume | 3-run average (For Method 26, collect a minimum volume of 200 liters per run. For Method 26A, collect a minimum volume of 1 dry standard cubic meters per run). | Performance test (Method 26 or 26A at 40 CFR part 60, appendix A–8). |
| Carbon monoxide | 3,800 parts per million by dry volume | 3-run average (collect sample for a minimum duration of one hour per run). | Performance test (Method 10, 10A, or 10B at 40 CFR part 60, appendix A–4). |
| Dioxins/furans (total mass basis). | 5.0 nanograms per dry standard cubic meter; or. | 3-run average (collect a minimum volume of 1 dry standard cubic meters per run). | Performance test (Method 23 at 40 CFR part 60, appendix A–7). |
| Dioxins/furans (toxic equivalency basis).[b] | 0.32 nanograms per dry standard cubic meter. | | |
| Mercury | 0.28 milligrams per dry standard cubic meter. | 3-run average (For Method 29 and ASTM D6784–02 (Reapproved 2008),[c] collect a minimum volume of 1 dry standard cubic meters per run. For Method 30B, collect a minimum sample as specified in Method 30B at 40 CFR part 60, appendix A–8). | Performance test (Method 29 at 40 CFR part 60, appendix A–8; Method 30B at 40 CFR part 60, appendix A–8; or ASTM D6784–02 (Reapproved 2008).[c] |
| Oxides of nitrogen | 220 parts per million by dry volume | 3-run average (Collect sample for a minimum duration of one hour per run). | Performance test (Method 7 or 7E at 40 CFR part 60, appendix A–4). |
| Sulfur dioxide | 26 parts per million by dry volume | 3-run average (For Method 6, collect a minimum volume of 200 liters per run. For Method 6C, collect sample for a minimum duration of one hour per run). | Performance test (Method 6 or 6C at 40 CFR part 40, appendix A–4; or ANSI/ASME PTC 19.10–1981.[c] |
| Cadmium | 0.095 milligrams per dry standard cubic meter. | 3-run average (collect a minimum volume of 1 dry standard cubic meters per run). | Performance test (Method 29 at 40 CFR part 60, appendix A–8). |
| Lead | 0.30 milligrams per dry standard cubic meter. | 3-run average (collect a minimum volume of 1 dry standard cubic meters per run). | Performance test (Method 29 at 40 CFR part 60, appendix A–8. |

TABLE 3 TO SUBPART LLL OF PART 62—EMISSION LIMITS AND STANDARDS FOR EXISTING MULTIPLE HEARTH SEWAGE SLUDGE INCINERATION UNITS—Continued

| For the air pollutant | You must meet this emission limit [a] | Using these averaging methods and minimum sampling volumes or durations | And determining compliance using this method |
|---|---|---|---|
| Fugitive emissions from ash handling. | Visible emissions of combustion ash from an ash conveying system (including conveyor transfer points) for no more than 5 percent of any compliance test hourly observation period. | Three 1-hour observation periods ..... | Visible emission test (Method 22 of appendix A–7 of this part). |

[a] All emission limits are measured at 7 percent oxygen, dry basis at standard conditions.
[b] You have the option to comply with either the dioxin/furan emission limit on a total mass basis or the dioxin/furan emission limit on a toxic equivalency basis.
[c] Incorporated by reference, see § 60.17.

TABLE 4 TO SUBPART LLL OF PART 62—OPERATING PARAMETERS FOR EXISTING SEWAGE SLUDGE INCINERATION UNITS [a]

| For these operating parameters | You must establish these operating limits | And monitor using these minimum frequencies | | |
|---|---|---|---|---|
| | | Data measurement | Data recording [b] | Data averaging period for compliance |
| **All sewage sludge incineration units** | | | | |
| Combustion chamber operating temperature (not required if afterburner temperature is monitored). | Minimum combustion chamber operating temperature or afterburner temperature. | Continuous ... | Every 15 minutes ..... | 12-hour block. |
| Fugitive emissions from ash handling ..... | Site-specific operating requirements. | Not applicable. | No applicable ..... | Not applicable. |
| **Scrubber** | | | | |
| Pressure drop across each wet scrubber .... | Minimum pressure drop ..... | Continuous ... | Every 15 minutes ..... | 12-hour block. |
| Scrubber liquid flow rate ..... | Minimum flow rate ..... | Continuous ... | Every 15 minutes ..... | 12-hour block. |
| Scrubber liquid pH ..... | Minimum pH ..... | Continuous ... | Every 15 minutes ..... | 3-hour block. |
| **Fabric Filter** | | | | |
| Alarm time of the bag leak detection system alarm. | Maximum alarm time of the bag leak detection system alarm (this operating limit is provided in § 60.4850 and is not established on a site-specific basis). | | | |
| **Electrostatic precipitator** | | | | |
| Secondary voltage of the electrostatic precipitator collection plates. | Minimum power input to the electrostatic precipitator collection plates. | Continuous ... | Hourly ..... | 12-hour block. |
| Secondary amperage of the electrostatic precipitator collection plates. | | | | |
| Effluent water flow rate at the outlet of the electrostatic precipitator. | Minimum effluent water flow rate at the outlet of the electrostatic precipitator. | Hourly ..... | Hourly ..... | 12-hour block. |
| **Activated carbon injection** | | | | |
| Mercury sorbent injection rate ..... | Minimum mercury sorbent injection rate. | Hourly ..... | Hourly ..... | 12-hour block. |
| Dioxin/furan sorbent injection rate ..... | Minimum dioxin/furan sorbent injection rate. | | | |
| Carrier gas flow rate or carrier gas pressure drop. | Minimum carrier gas flow rate or minimum carrier gas pressure drop. | Continuous ... | Every 15 minutes ..... | 12-hour block. |
| **Afterburner** | | | | |
| Temperature of the afterburner combustion chamber. | Minimum temperature of the afterburner combustion chamber. | Continuous ... | Every 15 minutes ..... | 12-hour block. |

[a] As specified in § 62.15985, you may use a continuous emissions monitoring system or continuous automated sampling system in lieu of establishing certain operating limits.
[b] This recording time refers to the minimum frequency that the continuous monitor or other measuring device initially records data. For all data recorded every 15 minutes, you must calculate hourly arithmetic averages. For all parameters, you use hourly averages to calculate the 12-hour or 3-hour block average specified in this table for demonstrating compliance. You maintain records of 1-hour averages.

TABLE 5 TO SUBPART LLL OF PART 62—TOXIC EQUIVALENCY FACTORS

| Dioxin/Furan isomer | Toxic equivalency factor |
|---|---|
| 2,3,7,8-tetrachlorinated dibenzo-p-dioxin | 1 |
| 1,2,3,7,8-pentachlorinated dibenzo-p-dioxin | 1 |
| 1,2,3,4,7,8-hexachlorinated dibenzo-p-dioxin | 0.1 |
| 1,2,3,7,8,9-hexachlorinated dibenzo-p-dioxin | 0.1 |
| 1,2,3,6,7,8-hexachlorinated dibenzo-p-dioxin | 0.1 |
| 1,2,3,4,6,7,8-heptachlorinated dibenzo-p-dioxin | 0.01 |
| octachlorinated dibenzo-p-dioxin | 0.0003 |
| 2,3,7,8-tetrachlorinated dibenzofuran | 0.1 |
| 2,3,4,7,8-pentachlorinated dibenzofuran | 0.3 |
| 1,2,3,7,8-pentachlorinated dibenzofuran | 0.03 |
| 1,2,3,4,7,8-hexachlorinated dibenzofuran | 0.1 |
| 1,2,3,6,7,8-hexachlorinated dibenzofuran | 0.1 |
| 1,2,3,7,8,9-hexachlorinated dibenzofuran | 0.1 |
| 2,3,4,6,7,8-hexachlorinated dibenzofuran | 0.1 |
| 1,2,3,4,6,7,8-heptachlorinated dibenzofuran | 0.01 |
| 1,2,3,4,7,8,9-heptachlorinated dibenzofuran | 0.01 |
| octachlorinated dibenzofuran | 0.0003 |

TABLE 6 TO SUBPART LLL OF PART 62—SUMMARY OF REPORTING REQUIREMENTS FOR EXISTING SEWAGE SLUDGE INCINERATION UNITS [a]

| Report | Due date | Contents | Reference |
|---|---|---|---|
| Increments of progress report | No later than 10 business days after the compliance date for the increment. | 1. Final control plan including air pollution control device descriptions, process changes, type of waste to be burned, and the maximum design sewage sludge burning capacity.<br>2. Notification of any failure to meet an increment of progress.<br>3. Notification of any closure. | § 62.16030(a). |
| Initial compliance report | No later than 60 days following the initial performance test. | 1. Company name and address<br>2. Statement by a responsible official, with that official's name, title, and signature, certifying the accuracy of the content of the report.<br>3. Date of report.<br>4. Complete test report for the initial performance test.<br>5. Results of CMS [b] performance evaluation.<br>6. The values for the site-specific operating limits and the calculations and methods used to establish each operating limit.<br>7. Documentation of installation of bag leak detection system for fabric filter.<br>8. Results of initial air pollution control device inspection, including a description of repairs.<br>9. The site-specific monitoring plan required under § 62.15995.<br>10. The site-specific monitoring plan for your ash handling system required under § 62.15995. | § 62.16030(b). |
| Annual compliance report | No later than 12 months following the submission of the initial compliance report; subsequent reports are to be submitted no more than 12 months following the previous report. | 1. Company name and address.<br>2. Statement and signature by responsible official.<br>3. Date and beginning and ending dates of report.<br>4. If a performance test was conducted during the reporting period, the results of the test, including any new operating limits and associated calculations and the type of activated carbon used, if applicable. | § 62.16030(c) |

TABLE 6 TO SUBPART LLL OF PART 62—SUMMARY OF REPORTING REQUIREMENTS FOR EXISTING SEWAGE SLUDGE INCINERATION UNITS [a]—Continued

| Report | Due date | Contents | Reference |
|---|---|---|---|
| | | 5. For each pollutant and operating parameter recorded using a CMS, the highest recorded 3-hour average and the lowest recorded 3-hour average, as applicable.<br>6. If no deviations from emission limits, emission standards, or operating limits occurred, a statement that no deviations occurred.<br>7. If a fabric filter is used, the date, time, and duration of alarms..<br>8. If a performance evaluation of a CMS was conducted, the results, including any new operating limits and their associated calculations.<br>9. If you met the requirements of § 62.16000(a)(3) and did not conduct a performance test, include the dates of the last three performance tests, a comparison to the 50 percent emission limit threshold of the emission level achieved in the last three performance tests, and a statement as to whether there have been any process changes.<br>10. Documentation of periods when all qualified SSI unit operators were unavailable for more than 8 hours but less than 2 weeks.<br>11. Results of annual pollutions control device inspections, including description of repairs.<br>12. If there were no periods during which your CMSs had malfunctions, a statement that there were no periods during which your CMSs had malfunctions.<br>13. If there were no periods during which your CMSs were out of control, a statement that there were no periods during which your CMSs were out of control.<br>14. If there were no operator training deviations, a statement that there were no such deviations.<br>15. Information on monitoring plan revisions, including a copy of any revised monitoring plan. | |
| Deviation report (deviations from emission limits, emission standards, or operating limits, as specified in § 62.16030(e)(1)). | By August 1 of a calendar year for data collected during the first half of the calendar year; by February 1 of a calendar year for data collected during the second half of the calendar year. | *If using a CMS:*<br>1. Company name and address.<br>2. Statement by a responsible official.<br>3. The calendar dates and times your unit deviated from the emission limits or operating limits.<br>4. The averaged and recorded data for those dates.<br>5. Duration and cause of each deviation.<br>6. Dates, times, and causes for monitor downtime incidents.<br>7. A copy of the operating parameter monitoring data during each deviation and any test report that documents the emission levels.<br>8. For periods of CMS malfunction or when a CMS was out of control, you must include the information specified in § 62.16030(d)(3)(viii).<br>*If not using a CMS:*.<br>1. Company name and address.<br>2. Statement by a responsible official.<br>3. The total operating time of each affected SSI. | § 62.16030(d). |

TABLE 6 TO SUBPART LLL OF PART 62—SUMMARY OF REPORTING REQUIREMENTS FOR EXISTING SEWAGE SLUDGE INCINERATION UNITS [a]—Continued

| Report | Due date | Contents | Reference |
|---|---|---|---|
| | | 4. The calendar dates and times your unit deviated from the emission limits, emission standard, or operating limits.<br>5. The averaged and recorded data for those dates.<br>6. Duration and cause of each deviation.<br>7. A copy of any performance test report that showed a deviation from the emission limits or standards.<br>8. A brief description of any malfunction, a description of actions taken during the malfunction to minimize emissions, and corrective action taken. | |
| Notification of qualified operator deviation (if all qualified operators are not accessible for 2 weeks or more). | Within 10 days of deviation ..... | 1. Statement of cause of deviation .....<br>2. Description of actions taken to ensure that a qualified operator will be available.<br>3. The date when a qualified operator will be accessible. | § 62.16030(e). |
| Notification of status of qualified operator deviation. | Every 4 weeks following notification of deviation. | 1. Description of actions taken to ensure that a qualified operator is accessible.<br>2. The date when you anticipate that a qualified operator will be accessible.<br>3. Request for approval to continue operation. | § 62.16030(e). |
| Notification of resumed operation following shut down (due to qualified operator deviation and as specified in § 62.15945(b)(2)(i). | Within five days of obtaining a qualified operator and resuming operation. | 1. Notification that you have obtained a qualified operator and are resuming operation. | § 62.16030(e). |
| Notification of a force majeure | As soon as practicable following the date you first knew, or through due diligence should have known that the event may cause or caused a delay in conducting a performance test beyond the regulatory deadline; the notification must occur before the performance test deadline unless the initial force majeure or a subsequent force majeure event delays the notice, and in such cases, the notification must occur as soon as practicable. | 1. Description of the force majeure event ..<br>2. Rationale for attributing the delay in conducting the performance test beyond the regulatory deadline to the force majeure.<br>3. Description of the measures taken or to be taken to minimize the delay.<br>4. Identification of the date by which you propose to conduct the performance test. | § 62.16030(f). |
| Notification of intent to start or stop use of a CMS. | 1 month before starting or stopping use of a CMS. | 1. Intent to start or stop use of a CMS ..... | § 62.16030(g). |
| Notification of intent to conduct a performance test. | At least 30 days prior to the performance test. | 1. Intent to conduct a performance test to comply with this subpart. | |
| Notification of intent to conduct a rescheduled performance test. | At least 7 days prior to the date of a rescheduled performance test. | 1. Intent to conduct a rescheduled performance test to comply with this subpart. | |

[a] This table is only a summary, see the referenced sections of the rule for the complete requirements.
[b] CMS means continuous monitoring system.

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